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LEGISLATION TO RESTRICT ACQUISITIONS BY FIRMS WITH GRANDFATHERED NONBANK BANKS

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

LEGISLATION THAT WOULD REQUIRE FINANCIAL FIRMS WITH LARGE GRANDFATHERED NONBANK BANKS TO DIVEST THOSE BANKS IF A FIRM BUYS GREATER THAN A 5-PERCENT STAKE IN A COMMERCIAL FIRM AND TO ENFORCE THE LONGSTANDING CONGRESSIONAL POLICY OF SEPARATING BANKING AND COMMERCE

APRIL 11, 1988

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LEGISLATION TO RESTRICT ACQUISITIONS BY FIRMS WITH GRANDFATHERED NONBANK BANKS

MONDAY, APRIL 11, 1988

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The committee met at 10 a.m., in room SD-538, Dirksen Senate Office Building, Senator William Proxmire (chairman of the committee) presiding.

Present: Senators Proxmire, Dixon, Sasser, Shelby, Graham, Heinz, D'Amato, Hecht, Gramm, and Chafee.

OPENING STATEMENT OF CHAIRMAN PROXMIRE

The CHAIRMAN. The committee will come to order.

This morning the committee is holding hearings at the request of Senator Heinz on a number of legislative issues stemming from the current acquisition contest between Koppers and a partnership formed by Beazer and Shearson Lehman Hutton.

Senator Heinz' proposed legislation would require financial firms with large grandfathered nonbank banks to divest those banks if a firm buys greater than a 5-percent stake in a commercial firm. As I understand it, the central purpose of this legislation is to enforce the longstanding congressional policy of separating banking and commerce, a policy that I strongly support.

The Koppers acquisition is of particular interest to this committee because Shearson's corporate parent, the American Express Co., owns the Boston Safe Deposit and Trust Co., the Nation's 20th largest bank in deposits. Last year Congress closed the nonbank bank loophole with a grandfather clause allowing companies to retain their ownership of a nonbank under certain restrictions, including a 7-percent limit on asset growth which becomes effective on August 10 of this year.

At the time that Congress considered this legislation American Express' nonbank bank, the Boston Safe Deposit Co., had $8 billion in assets. Today Boston Safe Deposit has assets of over $15 billion. Clearly, the situation has changed substantially in just 1 year.

This takeover also raises issues relevant to the current debate over the repeal of Glass-Steagall. In response to arguments of the securities industry this committee and the Senate has seen fit to delay the full entry of bank holding companies into the securities business until 1991 and then only through a vote of both Houses of Congress.

Equity underwriting, it is argued, might be too risky for bank holding companies.

At the same time, we have one of the Nation's largest securities firms owning the Nation's 20th largest bank, engaging not just in equity underwriting but equity investment, presumably a far riskier activity.

If equity underwriting is too dangerous for bank holding companies, how can we permit securities firms to remain affiliated with nonbanks, especially those that are among the 20 largest banks in the country?

Another issue raised by this takeover is whether any securities firm should be permitted to make equity investments as part of a takeover contest. As investment bankers have been fond of pointing out over the years, there's a potential conflict between lending and investment banking. It would seem to me that providing merger advice while at the same time taking an active financial interest in the merger is far more serious a potential conflict and needs to be looked at carefully by the committee.

Senator Heinz, this hearing was held at your suggestion. I think it's an excellent suggestion and I'm delighted to work with you on it and you have the floor.

OPENING STATEMENT OF SENATOR HEINZ

Senator **Heinz**. Mr. Chairman, first, I want to thank you and commend you for very promptly scheduling this hearing. You scheduled it within 1 week after we came back—not even—this is really the first day we're back. I don't think I could have asked for anything better and I want to say that I appreciate your interest in the matter and that I agree with you that this issue raises a number of very vital and important questions.

The takeover proposal of last month raises several of those questions and just to review that: on March 3 Shearson, in a consortium with Beazer PLC and National Westminster Bank, initiated a hostile tender offer for Koppers Co. headquartered in Pittsburgh. The media called Shearson's actions unprecedented. I believe they are also precedent-setting. The question before us is whether they are dangerous or contrary to our policy which draws a line between certain financial services and other commercial activities.

We reaffirmed that policy in the legislation crafted by Senators Proxmire and Garn that passed the Senate 10 days ago. We drew the line again between financial service and commercial or industrial companies. If we allow this type of activity to become the norm, the question then is what becomes of the line that we have drawn? I guess it was Qadhafi who drew the "line" but it just didn't stop anything.

This is the first time a major investment banking firm has taken an equity partnership in a hostile takeover attempt. In this case, the investment bank has a very significant ownership in a bank, one of the 20 largest institutions of its kind.

The financier, Shearson, is not a passive participant in this endeavor. All the evidence points to the fact that it dreamed up the deal. It suggested the deal to Beazer PLC last summer. It certainly has supported the deal when Beazer itself could not by agreeing to provide a bridge loan of nearly $½ billion dollars and to take a 46-percent equity stake in the partnership that would attempt the takeover.

If this deal succeeds, Shearson will own almost 50 percent of the Koppers Co. In fact, the percentage may be higher if Shearson follows through with its agreement to provide subordinated loans of another $½ billion.

Sheearson's activities have raised disturbing questions on several fronts, one of which I addressed during the Senate's consideration of S. 1886 2 weeks ago. As you know, Mr. Chairman, Shearson is the investment banking subsidiary of American Express. Shearson American Express also owns the Boston Safe Deposit and Trust Co., a nonbank bank which was grandfathered under CEBA. By virtue of that grandfather, Mr. Chairman, American Express and Shearson escaped many of the regulatory safeguards of the Bank Holding Company Act which would not permit this type of investment banking activity.

In S. 1886, we enhanced American Express' competitive position two ways. First, we redrew the line between banking and commerce such that it would become a line between commerce and financial services, and we broadly defined the term financial services. Second, we carved out a special category of holding company, the diversified financial holding company, which would enjoy certain exemptions from the Federal Reserve and its regulation by virtue of its activities being devoted to financial services.

We did not, as I recall, endorse any affiliation between this new type of holding company with general industrial and commercial operations.

The amendment I offered during the Senate's consideration of S. 1886 was intended to assure that American Express and others similarly situated will not abuse their privileged status and their insured financial institution linkages by crossing the line between financial and nonfinancial activities.

Mr. Chairman, to the extent that there are critics of this amendment, they oppose it on the grounds that it is directed at halting the activities of one investment bank, namely Shearson. For all practical purposes, that is certainly true. But it is true only because Shearson is the first securities firm to step across the line dragging a bank with it, perhaps not so coincidentally one day after the Banking Committee approved S. 1886 with its special provisions for the benefit of Shearson's firm, American Express.

Shearson is only the first to cross a line that Wall Street believes will be obliterated by others racing across it in the future.

Mr. Chairman, what is this debate and my amendment on the floor all about? As a policy matter, do we want investment banks, particularly those with banks, crossing the line from agent to principal? Do we want firms primarily involved in financial services moving into merchant banking, advising and financing M&A deals and at the same time investing in those deals? Do we want to abrogate the longstanding policy in this country regarding the separation of banking from general commerce and industry, a policy I might add which was reaffirmed in CEBA with the closing of the nonbank bank loophole and reaffirmed in the current legislation which recently was overwhelmingly approved by the Senate.

From a policy perspective, this is a dangerous road for the future of our banking system. Our recent legislative actions have shown that this committee and the Congress are willing to redefine the barrier between banking and commerce, but they are not in favor of redefining it to include what we call or refer to as merchant banking. Yet this will be an issue if the Chairman's Financial Modernization Act becomes law because of these activities that we are investigating today.

In our bill we do permit banks to affiliate with securities firms and by April 1991 we will vote on whether to permit equity underwriting authority for these affiliates. This, too, presents a significant policy question, Mr. Chairman. Did the committee and the Congress intend to permit securities affiliates of banks to become engaged in the risky use of their own capital? Frankly, I think not. Therefore, that crack in the wall should be closed right now because it will be more detrimental to the safety and soundness of the banking system than the nonbank bank loophole.

Mr. Chairman, I have numerous questions that I hope this hearing will address, such as the highly suspicious debt structure of this transaction, potential margin requirements violations and potential violations of the Bank Holding Company Act. I look forward to hearing the witnesses' responses.

The **Chairman**. Thank you, Senator Heinz.

Senator Sasser.

OPENING STATEMENT OF SENATOR SASSER

Senator **Sasser**. Thank you, Mr. Chairman.

I want to join Senator Heinz in expressing my appreciation to you, Mr. Chairman, for holding these hearings so soon after Senator Heinz and I raised this issue on the Senate floor.

The issue and indeed the legislation that my distinguished colleague is proposing today is timely. We have pending in Congress major legislation governing both the role of banks in the securities business and corporate takeovers generally. Senator Heinz' proposal is appropriate for incorporation in either of these two bills I do believe.

Now this morning's hearing affords us the unique opportunity to examine an issue that cuts across both the securities and the banking jurisdiction of this committee. We are faced with the situation where an investment bank has made an unprecedented equity interest offer in a highly leveraged hostile takeover. In effect, what we have is a bank acting as a corporate raider rather than an offeror of investment advice.

Most importantly, this investment bank that has done this at this time when it is in the highly unusual position, as the chairman indicated in his statement, of owning the 20th largest federally insured bank in the United States.

I think it's fair to say that the banking industry in this country traditionally has followed a policy of conservatism and avoidance of risk. When the banking industry has strayed from this course it's gotten into trouble.

Thus, when the owner of a bank for whom the Federal Government is providing insurance seeks to take an enormous equity interest in a highly leveraged hostile acquisition of a commercial firm then I think it's high time for us to pause and reexamine very carefully the laws that would permit this to occur.

The separation of banking and commerce has been a basic tenet of banking law in this country for generations. It is good public policy. The separation of banking and commerce is a check against conflicts of interest. It protects federally insured deposits from risk. It prevents these deposits from subsidizing nonbanking operations.

Now, Mr. Chairman, as you know, nonbank banks are somewhat of an enigma in this scheme. In last year's banking bill we grandfathered over 100 such banks to be owned by diversified companies. I supported this legislation at that time. However, we did not then foresee a situation where a federally insured bank would be a very, very large part of a company's operation at the same time the company engaged in corporate raiding.

Thus, the proposal I think offered by our distinguished colleague from Pennsylvania has merit. Quite simply, it says that when a bank comprises over 10 percent of a financial service company's business, that company cannot make an equity investment in a nonfinancial services firm of greater than 5 percent. Indeed, the proposal parallels one of the many restrictions on traditional bank holding companies that limits equity investments in nonbanking activities to 5 percent.

Now it's often said that banks occupy a special place in our economic system, and that is true. We confer certain advantages on banks and in return expect them to fulfill certain obligations. I respectfully suspect that corporate raiding is not one of those obligations.

In closing, I want to say, Mr. Chairman, that I personally am very sorry to see Mr. Charles Pullin of the Koppers Co. before us today under these circumstances. I would be remiss if I did not state that Koppers has been an outstanding public citizen of my home State of Tennessee for over 50 years, a responsible corporate citizen that provided jobs for our people and has been a great help to the economy of our State. Its forest products division services some 400 sawmills across my State and its stone and construction operation is an important part of the East Tennessee economy.

Again, my thanks for holding these hearings expeditiously Mr. Chairman.

The CHAIRMAN. Thank you, Senator Sasser.

Senator D'AMATO.

OPENING STATEMENT OF SENATOR D'AMATO

Senator D'AMATO. Thank you, Mr. Chairman.

Mr. Chairman, certainly you have proven to be more than a man of your word. I was on the floor during the considerations of the Proxmire Financial Modernization Act when my distinguished colleague from Pennsylvania raised an amendment and you indicated to him that you would hold hearings regarding his concerns as soon as possible after the break, and here we are, the first day back, the first morning, holding these hearings. And that certainly, Senator Proxmire, is keeping one's word. So let me commend you and I certainly welcome our witnesses this morning: Mr. Freeman of American Express; Mr. Pullin from Koppers Co.; and Mr. Beazer, chairman of Beazer PLC, and I look forward to the testimony.

I understand what this legislation does at least on its face. It prohibits diversified financial service companies having grandfathered nonbank banks from acquiring more than 5 percent of a nonfinancial entity. That seems straightforward enough. But in reviewing this matter it's pretty clear that we have to look at the reality behind the legislation and behind its language. And my good friend from Pennsylvania, Senator Heinz, has made no secret—no bones about the obvious fact that he is very much concerned about the implications of certain transactions which this bill is aimed at that concern a company in his State—the proposed acquisition of Koppers Co. by Beazer PLC with financing provided by Shearson Lehman, a division of American Express. That fact is reinforced by the witnesses who are here today and I understand and I sympathize with my colleague from Pennsylvania and, as a matter of fact, he is a man who is looking to fight for his constituents and keep this area of Pennsylvania from losing jobs in a region which has already been hard hit by economic dislocation.

But one must look at the broader policy impact. What is the precise evil here that Congress can and should address? That's the question. Indeed, is it an evil. Is it something systemwide and detrimental to the soundness of our financial structure is not really the question. We certainly shouldn't amend the Bank Holding Company Act simply to prevent one transaction.

My distinguished colleague, Senator Heinz, has said that the purpose of the legislation would be to treat firms with grandfathered nonbank banks in the same fashion as firms with regular commercial banks, thus creating "a level playing field." Now under the Bank Holding Company Act, firms that own commercial banks cannot take significant equity position in nonbanking institutions. Now this restriction is ostensibly to protect FDIC insured deposits, but the simply fact is that banks, commercial banks included, do make bridge loans all the time. These loans often are secured by the assets acquired with the proceeds. Yet we don't treat that as an "acquisition" by the bank's holding company.

The Senator seems to assume that the financial services company itself, rather than its client, is making the acquisition, but the acquisition of voting shares of a company has not been proven inherently distinct for loan purposes from the acquisition of real estate or new equipment. I think a distinction must be established showing why the transactions being reviewed here are different from the traditional bridge loan function in order to justify or even consider amending the Bank Holding Company Act.

I also take some exception to the apparent presumption that the assets of the bank here, whether insured or not, are being used to fund the investment activities of the securities affiliate. That's not been shown and if it were would be violative of existing law passed by the Congress last year.

So while I commend my colleague from Pennsylvania for his energetic protection of his constituents' interests, certainly that again is something that we are aware of and is important, and for his creative approach to a situation, and it is rather creative. I am unconvinced, however, that there is a problem here which requires the kind of broad legislative solution that is put forth. Indeed, before we make an issue of this I urge the committee to get the facts which they're doing from both sides, analyze that testimony before rushing to judgment. While I share this concern, it seems to me as long as these grandfathered institutions abide by the law and engage in no activities that they were not engaged in prior to March 5, 1987, they are in fact within the scope of the law.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator D'Amato.

Senator Hecht.

Senator HECHT. Thank you, Mr. Chairman. No comment.

The CHAIRMAN. At this point I have a statement from Senator Dixon to be inserted in the record.

APRIL 11, 1988

STATEMENT OF SENATOR ALAN DIXON

SENATE BANKING COMMITTEE HEARING
ON
TAKEOVER AND BANKING ISSUES

I WOULD LIKE TO WELCOME OUR DISTINGUISHED GUESTS THIS MORNING. I THANK THE CHAIRMAN FOR CALLING THIS HEARING AND PROVIDING THE COMMITTEE WITH THE OPPORTUNITY TO DISCUSS THE PROPOSAL MADE BY OUR DISTINGUISHED COLLEAGUE FROM PENNSYLVANIA DURING CONSIDERATION OF THE BANKING BILL. I APPRECIATE THE FACT THAT HE WAS WILLING TO POSTPONE CONSIDERATION OF HIS PROPOSAL UNTIL THE COMMITTEE COULD HOLD HEARINGS.

AS I UNDERSTAND IT, THE HEINZ AMENDMENT WOULD RESTRICT GRANDFATHERED NONBANK BANK OWNERS PRIMARILY ENGAGED IN FINANCIAL SERVICES FROM PURCHASING MORE THAN 5 PER CENT OF THE SHARES OF A COMMERCIAL FIRM. THE CASE FOR THE AMENDMENT

ARISES OUT OF THE HOSTILE TENDER OFFER FOR THE KOPPERS COMPANY MADE BY A PARTNERSHIP THAT INCLUDES BRITISH-BASED PLC AND NATIONAL WESTMINSTER BANK, AND SHEARSON LEHMAN HUTTON, A SUBSIDIARY OF AMERICAN EXPRESS.

I THINK SENATOR HEINZ HAS MADE AN IMPORTANT CONTRIBUTION BY BRINGING THIS ISSUE TO OUR ATTENTION, AND I LOOK FORWARD TO LEARNING MORE ABOUT THE MATTER FROM THE WITNESSES APPEARING BEFORE THE COMMITTEE TODAY.

The **Chairman**. Gentlemen, we are delighted to have you. We have all sides represented.

Mr. Beazer, we will start with you. I understand you come from a line of home builders that dates back to 1745. That's even before I was born. [Laughter.]

I want to welcome you to the committee, Mr. Beazer. Go right ahead.

STATEMENT OF BRIAN C. BEAZER, CHAIRMAN AND CHIEF EXECUTIVE, BEAZER PLC

Mr. **Beazer**. Chairman Proxmire, members of the Senate Banking Committee, thank you for seeing me here today. I sent you a copy of my written testimony. I must apologize for my voice. Unfortunately, I have a slight cold.

Mr. Chairman, we are very considerable investors to date in the U.S. economy. Since 1985, we have in fact invested $500 million in investments in this country. Koppers, for us, would be a continuation of that policy and it is not correct to state that the Koppers transaction was introduced to us by Shearson Lehman. We in fact discussed this within our area offices in the United States of America.

Now we are very happy to be an investor in this country. We believe it has a vibrant and strong free market mechanism and we therefore intend to continue with our policies.

However, I do see certain restrictions growing in this society and whilst I am a noncitizen, if you would allow me to say, these statements are not always clothed in self-serving references. They in fact contain such statements as employment and the American flag. I very much doubt if you can strengthen employment or the American flag by restrictions.

I come from a society myself, Mr. Chairman, that over a number of years has suffered greatly from restrictions. However, I am pleased to say that since the advent of Mrs. Thatcher, our economy has strengthened and grown as the restrictions fall.

If I might briefly mention my own history and career, I'm 53 years old. I was almost born into the construction and allied industries. I spent the whole of my working life in those industries and I do not believe that in any way I can be categorized as a corporate raider. The whole history of my career will show that that is not the case.

TWO MAIN ISSUES

The issue that we have in front of you as far as I am concerned, Mr. Chairman, is about two particular issues; and that is to see that employees and shareholders get the best deal that is possible in their circumstances.

Could I say that I am proud of my country, could I also say that I am immensely proud of my association with your country; and I believe that this is a society where limited government will ultimately allow unlimited opportunities.

Now as you quite rightly said, sir, the history of our own family in building goes back to the 18th century. At this present time, we are organized into three divisions. We operate in homes and property. We operate in contracting. We operate in building materials. We carry out those activities in three major areas of the world. That is, the Pacific, the United Kingdom and the United States of America. And it is clear from the investments that we have made and are considering making in the future that we have great confidence in the strength and stability of your economy and your country.

In terms of statistics, we have grown our own employment base over the last 5 years from 4,000 people to 18,000 people. I therefore do not see how anyone can claim that we are the sort of organization that seeks to put people out of work. Far from it. When I joined my own group 30 years ago, we had 25 employees and we've added to that situation ever since. Our annualized revenues are now running at $2 billion per annum. Our annualized earnings on our last reporting statement was in excess of $80 million. Our growth measured over the last 10 years has given us 30 percent compound growth in earnings per share. I think that those are records that we can be justifiably proud of.

But one has to ask one, why are we proud of it? And it is because we have assembled a management and employee team that is able to make those efforts that produces those results.

Our current activities, Mr. Chairman, in the United States include approximately 5,000 employees. You may be interested to know that we do not import into the societies as a generalization where we work nonnationals. Of our 5,000 employees in the United States, I think that approximately 13 come from other societies outside of the United States.

Our revenues in the United States at the present time are approximately $600 million per annum. We are now organized in the United States, as we are organized elsewhere in the world, into three divisions: one for home building. We are concentrating on middle income homes in Atlanta, in Nashville, TN., and in North and South Carolina. Those are activities again of which we are proud. All of those companies are led by American citizens. All of those companies have increased their employment base, their profitability, their revenues, and their earnings since we acquired them, and we aim to build and not to destroy.

We are involved in contracting in the United States of America. Our contracting activities run from California in the West through the Rocky Mountain regions to the Mid-Atlantic States where we are involved in specialized marine engineering. Our contracting interests in this country employ approximately 800 citizens of which the vast majority once again are Americans. We are therefore building our activities in this society.

One might ask, I think fairly, why will not Koppers discuss this issue with us? We have made a tender offer which I understand they have not been able to say is inadequate. How can they know that we are not a reasonable alternative for their stock, their employees, and their shareholders? It appears to me you can never know anything about an opposing side at least unless you hear their views. Koppers itself has suggested that they may recapitalize their company. They have suggested that they may sell the whole. They have suggested they may sell an equity interest or parts of the company. How, again I say, can they know that those alternatives are better for Pittsburgh, for Pennsylvania, for the employees, and for the shareholders than ours without discussing those issues with us?

Now could I mention our plans for Koppers so that there's no doubt in this matter? I believe that our plans for Koppers are good for all concerned. Can I emphasize that in the acquisition of Koppers we would have U.S. management. Can I emphasize that Koppers, in conformity with out policy everywhere, would remain an autonomous operating unit? Can I emphasize that management, staff and employees would all have local roots?

I've said this, Mr. Chairman, on a number of occasions, but I ask myself why doesn't anyone go to Dallas or to Atlanta and ask the authorities there what have we done to the companies that we have acquired? Are they better or worse than before acquisition?

Now we have said candidly that we intend to sell the chemical operations, but that doesn't mean to say that there are going to be wholesale firings. In fact, in my judgment, one of the great assets of those chemical companies is the management and the staff that they employ. Without those people, there would be no wealth and I do not see a vast dislocation of people in that matter.

Now it has been said that we will not control any acquisition. This scheme has been so devised that in each and every respect and at all times Beazer is in control. I'm sorry, Chairman, but I've run out of time, but would you allow me to say that wherever we work we've provided opportunities for all and wherever we work we are locals. In Texas, we are Texans. In Hong Kong, we are Chinese In Scotland, we are Scottish. That is our policy internationally and it will always be the case.

Chairman, thank you for your courtesy in allowing me to address your committee this morning.

[The complete prepared statement of Mr. Beazer follows.]

The CHAIRMAN. Thank you very much, Mr. Beazer.

Mr. Freeman.

STATEMENT OF HARRY L. FREEMAN, EXECUTIVE VICE PRESIDENT, AMERICAN EXPRESS CO.

Mr. FREEMAN. Thank you, Mr. Chairman.

My name is Harry Freeman. I am executive vice president of American Express Co. With me is Mr. Steven Wolitzer of Shearson Lehman Hutton as well as Paul A. Seader from the American Express Co. general counsel's office who's a specialist in banking laws. We appreciate this opportunity.

Late last month when the Senate debated the S. 1886, Senator Heinz introduced an amendment which would prohibit owners of banks grandfathered under CEBA from acquiring control of more than 5 percent of the shares of a publicly owned company unless 50 percent more of the consolidated assets of that company are devoted to financial services activities. This amendment would have a very narrow focus and apply only to those owners of grandfathered institutions that had more than 50 percent of their consolidated assets devoted to financial services activities, and more than 10 percent of their consolidated assets devoted to FDIC insured banks.

When Senator Heinz introduced his amendment he said that it "is aimed at trying to make both sets of institutions, bank holding companies as well as diversified financial holding companies, play on exactly the same, fair, level playing field." Senator Heinz explained that his amendment was intended to prohibit diversified financial holding companies from acquiring positions in target companies in connection with proposed corporate takeovers. He then went on to challenge his colleagues by saying, "I would like to have someone to come to the floor and argue why insured institutions should risk their money participating in takeover deals." He went on to say, "It is one thing for a securities firm to take those risks; they are in the business of risk taking," but firms that have a major interest in an FDIC insured depository institution should not take risks. We assumed Senator Heinz was talking about the American Express Co.'s subsidiary Shearson Lehman Hutton.

Senator Heinz' proposal appears to be predicated on two premises: first that somehow bank assets or insured deposits can be used and are in fact being used in the present transaction—I refer to the Koppers-Beazer transaction—to support the activities of a securities affiliate. This is not true. Second that there should be complete competitive equality between bank holding companies and diversified holding companies. Very simply, we at American Express strongly disagree with premise one but wholeheartedly agree with premise two, the notion that somehow a bank's assets or indeed even its insured deposits could or would be used by its securities affiliate flies in the face of existing bank law and regulation. To suggest that a diversified holding company that owns a grandfathered bank or any bank could engage in such a transaction would be in fact impossible.

SUPPORT FOR SENATOR HEINZ' SECOND PROPOSAL

Moving along, we do support Senator Heinz' position that bank holding companies, as well as diversified financial holding companies, should play on a level playing field. It is in that spirit that American Express joined with others in the financial services industry late last year to form the Financial Services Council. As a member of the Financial Services Council, American Express strongly supports the Depository Institution Affiliation Act—S. 1905—which was introduced by Senator D'Amato and Senator Cranston and was debated here. Many of its provisions were found in S. 1886 which cleared the Senate overwhelmingly 2 weeks ago. We sincerely hope that the passage of S. 1886 by the Senate will prove to be but a first step toward comprehensive restructuring of the financial services regulatory framework along functional lines.

We think the amendment of the banking bill along the lines of Senator Heinz' amendment would severely lower the chances of any banking legislation this year. The uncertain situation, frankly, in the House of Representatives and the fact that this amendment appears to be aimed solely at the securities industry would suggest that the legislation or the amendment would have a complicating factor in what otherwise is desirable legislation.

In one sense, Senator Heinz' amendment performs a useful service. It reminds us that the work begun in S. 1886 must now be carried to its logical conclusion. We believe that the format of S. 1905 points the way to a safe, efficient and competitive financial services structure for the future.

Whatever happens to S. 1886 in the House we at American Express Co. will be back in 1989 to advocate the principles incorporated in the D'Amato-Cranston bill. American Express is used to long crusades and we have the determination and will to stay the course.

While Senator Heinz seeks to entrench two sets of rules concerning the activities permissible for securities firms affiliated with banks—one for banks owned by bank holding companies—and one for banks owned by diversified holding companies—S. 1886 moves in the opposite direction. Section 102 of the bill passed 2 weeks ago would clearly allow a securities subsidiary or affiliate of a bank holding company to engage in securities activities permitted for brokers or dealers registered under the Securities Act of 1934 or for investment advisers registered under the Investment Advisers Act of 1940. This would presumably include full service investment banking and full service investment banking inherently permits an investment banker to provide bridge financing to its client even if such financing is structured to resemble an "equity investment." In sum, the Heinz amendment would seek to stop the securities firms from their normal business while letting bank holding company securities subsidiaries engage in those same businesses. We think that is a bizarre result. The quest for a level playing field would be close to vertical.

As Senator Sasser has observed, Senator Heinz' proposal is in reality drafted in such a way as to affect only one diversified financial services holding company—American Express Co.—because of one specific transaction—the Beazer-Koppers transaction.

TESTIMONY OF
BRIAN C. BEAZER
CHAIRMAN AND CHIEF EXECUTIVE
BEAZER PLC

INTRODUCTION

Chairman Proxmire, Senator Garn and Members of the Senate Banking Committee. I am Brian C. Beazer, Chairman and Chief Executive of Beazer PLC, based in Bath, England. I appreciate the opportunity to appear before you today to explain why we believe that our proposed acquisition of Koppers Company is good for Koppers, is good for Koppers' employees and its shareholders and the U.S. economy as a whole. I believe that an understanding of our proposal and the industrial objectives underlying it is an important predicate to the banking legislation introduced last week by Senator Heinz.

We are a considerable investor for the long term in the U.S. Since 1985, we have invested some $500 million in the construction and allied industries in this country. The tender for Koppers is the continuation of this policy. We are attracted by the free market mechanisms of the world's largest economy. It is our view that the United States is and will continue to be a sound and vibrant marketplace which gives to all in return for efficiency, a fair return for their efforts and participation.

BEAZER PLC HISTORY

By way of introduction, Beazer PLC is a general construction company whose business is divided into three principal segments: homes and property, contracting and building materials. I first joined Beazer in 1958, which at the time, was a small family company employing 25 people.

Beazer went public in 1973, and employs approximately 18,000 people in operations throughout the United Kingdom, the Far East and the United States. Since going public, Beazer's market value has increased from $7.0 million to over $900 million, with approximately $2 billion of annualized sales. Beazer's earnings have increased over the past ten years from $1 million to $80 million, and earnings per share has increased over the past decade at an annual compound rate in excess of 30%.

Beazer's U.S. operations have been an integral part of this success. These U.S. operations include Cohn Communities in Atlanta, Georgia; Phillips Builders in Nashville, Tennessee; Squires in Charlotte, North Carolina; Tidewater Construction Company in Norfolk, Virginia; the FK Company in Farmington, New Mexico; and most notably, Gifford-Hill headquartered in Dallas, Texas, which is engaged in the production of cement, ready-mixed

concrete, aggregates, and concrete products. Together, our U.S. operations employ approximately 5,000 people in the United States, with sales annualized of $650 million.

BEAZER'S LONG-TERM STRATEGY

Beazer's industrial goal is to become a broadly-based supplier of construction materials, of which Koppers would become an important part. Over the past several years, we have pursued a strategy of selective industrial and geographic diversification, expanding within the broad confines of the construction industry in three key markets where we foresee the best opportunities for future growth: the United Kingdom, the Far East and the United States. Koppers' aggregates operations fit ideally into our industrial strategy. By permitting us to diversify geographically, we will be able to soften the impact of domestic housing and construction cycles. Merging Koppers with Beazer will give these two entities the critical mass, management strength, and financial depth to compete more ably in the marketplace. Koppers' operations are attractive to us because they are located in some of the biggest construction markets in the world, and because about one half of Koppers' sales are to the road construction industry, which is projected to remain healthy over the years ahead.

HISTORY OF THE PROPOSED TRANSACTION

Because of this compelling industrial logic, Beazer, through BNS Inc. - a corporation which Beazer controls completely - commenced a cash tender offer on March 3, 1988, for all of Koppers' outstanding common and preferred stock. Our initial offer price was $45 per common share, which we have since raised to $60 making the total value of the transaction approximately $1.7 billion. This is nearly double the average price of Koppers' stock in the 30 days before the commencement of our offer and is more than 24.5 times Koppers' 1987 earnings from continuing operations. The Koppers Board of Directors and investment bankers have been unable to conclude that our current offer is inadequate.

Since commencing our offer, we have repeatedly asked Koppers' management for an opportunity to meet in an effort to negotiate a merger agreement and to provide maximum value to Koppers' shareholders, which culminated in a meeting with the Chairman at which he refused to discuss a merger. Koppers' management has mounted a massive campaign of disinformation, creating panic and confusion among Koppers' employees and the Pittsburgh community. Meanwhile, Koppers' management has stated in its SEC filing, among other things, that it has been at work designing a drastic corporate recapitalization plan for Koppers. Among the options under consideration by Koppers is the sale of the whole or a portion of its operations which could cause severe disruption to Koppers' employees and to the community. At the same time, Koppers' management has steadfastly refused to address what we regard to be the key issue - the benefits of the proposed acquisition to Koppers' shareholders, its employees, and its community constituencies.

Koppers' management has also attempted to divert attention to irrelevant subjects such as the role of our financial advisors, Shearson Lehman Hutton and County NatWest. In addition to extending bridge financing to Beazer of the type ordinarily extended by investment bankers, Shearson will make a small investment in BNS of approximately $23 million. That minority investment represents less than one and one half percent of the value of the total transaction and in no way will give Shearson any control over Koppers.

FUTURE GOALS AND PAST PERFORMANCE

It is critically important that you realize that Beazer is not a corporate raider. Our goal is not to make a quick buck by laying off employees, and selling the company's operations piecemeal as has been the case with Koppers' own divestiture program. Rather, we are industrialists. Our goal is to create a vital, dynamic worldwide organization in the international construction industry serving many constituencies, including employees, shareholders, and Beazer's local communities worldwide. We are interested in acquiring Koppers' aggregates operation because we believe that we can make it an even more profitable, vital business, creating greater opportunities for everyone connected with it -- employees, communities and customers. We know that we cannot prosper without the dedication and commitment of these individuals -- dedication and commitment we know we can expect only if we provide opportunities and resources in return.

This promise is demonstrated by our commitment to the communities where we do business throughout the world. Beazer has a proven ability to improve the efficiency and performance of the companies it acquires. As part of Beazer's worldwide organization, these companies are able to call upon extensive resources, depth of expertise, and enormous financial strength to help them grow and prosper. Because of their resulting vitality and stability, these companies are able to offer their employees greater long-term opportunities for career growth and advancement, and they are able to make continuing, major contributions to the communities of which they are a part.

Our recent acquisition of Gifford-Hill in Dallas, Texas, perfectly illustrates our expectation for Koppers. Gifford-Hill is more profitable, and thus producing greater benefits for its employees and the community, than prior to becoming a part of our organization. For the almost two years that Gifford-Hill has been an independently-managed subsidiary of Beazer, Gifford-Hill has grown and prospered. This is precisely what we envision for Koppers. I invite you to talk with Gifford-Hill's employees and community leaders in Dallas about our success there.

We at Beazer recognize that we must be integrally connected to the communities where we do business. I believe that our past record -- from Bath, England, to Dallas, Texas, to Hong Kong -- demonstrates the importance of that commitment to us. We know that we will prosper only if each and every one of the communities where we do business also prospers. For this reason, we intend to operate Koppers' aggregates business as an autonomous unit and to continue to maintain its headquarters in Pittsburgh.

At the same time, we have stated openly and candidly our plan to sell Koppers' chemical operations. We believe that the sale of the chemical operations will benefit Koppers' employees and other corporate constituencies since that business will perform far better as either an independent entity or as a part of a company that is focused principally on chemicals, rather than on an almost totally unrelated business, as is the case here.

I can appreciate the uncertainty and anxiety that this may cause for some Koppers employees, and for this reason Beazer will endeavor to divest Koppers' chemical operations in such a way as to minimize any possible dislocation of people. Our intention to sell the chemical division has been misconstrued to mean that employees of the chemicals division will lose their jobs. I can assure you that it is neither in Beazer's interest nor that of any prospective owner to destroy a valuable asset by laying off the employees that were in large measure responsible for creating that value.

BENEFITS OF A BEAZER-KOPPERS COMBINATION

Through filings with the Securities and Exchange Commission and through press reports, Koppers' management has stated that it is considering a number of alternatives to our offer, including a recapitalization and the possible sale of an interest in all or a portion of its construction materials and services business to a third party. In effect, Koppers' management, in an effort to keep Koppers independent, is considering a plan that is similar to our plan. The critical difference, however, is that it is not clear whether Koppers can match our plan, or provide similar opportunities for Koppers' employees to those we have proposed. It is important to remember that while Beazer's employment level has grown from 4,000 to 18,000 over the past five years, Koppers' has gone from 18,000 to less than 11,000, and that the profitability that Koppers has recently achieved has been in large part the result of sales of divisions to third parties, as well as employee layoffs and firings.

If Koppers' management pursues this course, we believe it might be responsible for far more disruption to employees and loss of jobs than might result from Beazer's plan. An expensive and potentially debilitating recapitalization at the hands of Koppers' management will harm Koppers' employees and the communities where Koppers does business. We can only ask why anyone believes that Koppers' employees, Koppers' shareholders, or the City of Pittsburgh would fare better under any recapitalization plan that Koppers' management is contemplating than with us. Under Beazer ownership and control, companies that we have acquired have improved their performance and profitability, with corresponding growth in opportunities and benefits for our employees. In addition, we can only ask why Koppers' management, through self-serving and defensive tactics, has refused to allow its shareholders who number over 11,500 to have the opportunity of accepting our proposal, thus effectively disenfranchising the owners of Koppers.

In short, Beazer's objective is two-fold: to provide full and fair value to Koppers' shareholders, many of whom are Koppers employees; and to ensure that Koppers has a substantial and prosperous future, to the benefit of its employees and the communities where Koppers does business. We believe that our tender offer for Koppers, and our plan to operate Koppers' aggregates business as an autonomous operation headquartered in Pittsburgh, meet these important objectives.

As I mentioned earlier, I am accompanied by Mr. Wolitzer of Shearson Lehman Hutton, who is prepared to discuss the technical issues concerning Shearson's role in this transaction. I would like to say, from the American Express Co. point of view, how we see this whole transaction.

The American Express Co. is the parent company of four large, relatively autonomous business units. Those are the following: The American Express Travel Related Services Co., IDS Financial Services, American Express Bank Limited, and Shearson Lehman Hutton. All these businesses are operating in the fast moving financial services industry and are necessarily given considerable autonomy by the parent company. American Express Co. holds approximately 62 percent of the outstanding stock of Shearson Lehman Hutton and the rest of its stock is being held by the public, a block by Nippon Life Insurance Co. of Osaka, Japan, and a small block by the management of Shearson Lehman Hutton.

Second, Shearson is operating in the normal course of its business as an investment banker. This involves a professional and confidential relationship with its client, Beazer PLC, for whom it is providing advice concerning the proposed transaction and for whom it is providing bridge financing along with County National Westminster for some of the funds needed to consummate the transaction. Both functions are normal for investment banks in the United States.

ILL-INFORMED, PROVOCATIVE, AND ILL-ADVISED

From an American Express Co. viewpoint, not only do we think this to be a Shearson transaction and activity in the normal course of Shearson's business, but we also view the uproar by some allies of Koppers as ill-informed, provocative, and ill-advised. Ill-informed because of the continued erroneous assertion that somehow Shearson, rather than Beazer, is trying to acquire Koppers, which is simply not true; and it strikes the management of American Express Co. again as a bizarre allegation. It would be odd for Shearson Lehman Hutton to be the first investment house on Wall Street to go into the sand, gravel and construction materials business. It would never occur to us to be in that business. Shearson people are bankers. Mr. Beazer is a builder. Provocative since there have been attacks on the American Express Co. and its various products unrelated to a dispute over who will manage the Koppers Co. in the future. And I would quote Chairman Greenspan of the Federal Reserve who testified before you about a month ago on hostile takeovers and said, "Gentlemen, it is merely a question of a fight between two alternative managements, no more and no less." We think the criticism has been ill-advised since the invocation of Government boycotts against the products of an affiliated company sets a very dangerous precedent which could be injurious to Pennsylvania interests in the future.

In the transaction, from an American Express Co. viewpoint, we see Shearson performing a professional function. We reject the allegations that somehow, through some theory, that an acquisition by a foreign company is somehow "wrong;" that an acquisition attempt which is not by a friend is somehow "wrong;" and that furnishing bridge financing to an established and reputable client such as the Beazer Co. is somehow "wrong." All such practices are not only permissible and lawful but widespread in the industry. In fact, in 1987, roughly 25 percent of the takeovers included merchant banking financing by the investment banker.

As to foreign investment being represented by American investment banks, this is commonplace and extremely prevalent. The most recent example of an investment bank representing a foreign investment is the First Boston Co., a very reputable firm in New York, now representing Koppers when last week or two weeks ago they represented Campeau in the Federated takeover. Campeau is a Canadian company.

As to hostile takeovers, they are virtually a daily event in the United States, as is the furnishing of bridge financing by investment bankers to clients.

We like to think we were not born yesterday and we recognize that such allegations are predictable when present management opposes such a transaction. I am expressly not including in the term "management" either Koppers', directors, or shareholders.

We also regard the various Koppers lawsuits as normal defensive maneuvers and accept that we must allow the judicial process to work its will on those cases.

What strikes us as odd is the involvement of government as an advocate for one side of the proposed transaction. We think the American Express Co. has been an outstanding public citizen in the State of Pennsylvania. We have roughly 1,400 employees in Pennsylvania, I might add significantly more than Koppers. Two weeks ago we opened a new travel office, in Pittsburgh and three of our four principal business units have strong plans for increasing employment in Pennsylvania. We're proud of what Shearson Lehman Hutton is doing in this transaction. We think we are good citizens and we plan to stay in Pennsylvania, increase our employment there, and go about our normal business.

Thank you very much.

[The complete prepared statement of Mr. Freeman follows:]

STATEMENT BY HARRY L. FREEMAN

EXECUTIVE VICE PRESIDENT

AMERICAN EXPRESS COMPANY

BEFORE

THE

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

UNITED STATES SENATE

APRIL 11, 1988

AMERICAN EXPRESS

Mr. Chairman and members of the Committee, my name is Harry Freeman. I am Executive Vice President of American Express Company. With me this morning is Mr. Steven Wolitzer of Shearson Lehman Hutton. We appreciate this opportunity to appear before the Committee and present our views on Senator Heinz' proposal to limit certain owners of banks grandfathered under the Competitive Equality Banking Act of 1987 (CEBA) from acquiring an equity ownership in entities not engaged in financial services.

Late last month when the Senate debated the Financial Modernization Act (S. 1886), Senator Heinz introduced an amendment which would prohibit owners of banks grandfathered under CEBA from acquiring control of more than 5 percent of the shares of a publicly owned company unless 50 percent more of the consolidated assets of that company are devoted to financial services activities. This amendment would have a very narrow focus and apply only to those owners of grandfathered institutions that (1) had more than 50 percent of their consolidated assets devoted to financial services activities, and (2) more than 10 percent of their consolidated assets devoted to FDIC insured banks.

When Senator Heinz introduced his amendment he said that it ... "is aimed at trying to make both sets of institutions, bank holding companies as well as diversified financial holding companies, play on exactly the same, fair, level playing field ... ." Senator Heinz explained that his amendment was intended to prohibit diversified financial holding companies from acquiring positions in target companies in connection with proposed corporate takeovers. He then went on to challenge his colleagues by saying, "I would like someone to come to the floor and argue why insured institutions should risk their money participating in takeover deals." He went on to say "it is one thing for a securities firm to take those risks; they are in the business of risk taking ... " but firms that have a major interest in an FDIC insured depository institution, should not take such risks.

Thus, Senator Heinz' proposal appears to be predicated on two premises: (1) that somehow bank assets or insured deposits can be used and are in fact being used in the present transaction to support the activities of a securities affiliate, and (2) there should be complete competitive equality between bank holding companies and diversified holding companies. Very simply, we at American Express strongly disagree with premise number 1 but wholeheartedly agree with premise number 2.

The notion that somehow a bank's assets or indeed even its insured deposits could or would be used by its securities affiliate flies in the face of existing bank law and regulation. To suggest that a diversified holding company that owns a grandfathered bank could engage in such a transaction would be impossible.

CEBA did grandfather certain affiliations between limited service depository institutions and full service securities firms that were in existence as of March 5, 1987. Such grandfathered affiliations, however, were made subject to severe and unprecedented restrictions, including:

- a prohibition on the grandfathered bank's engaging in any new activities not lawfully engaged in as of March 5, 1987 ("new activities restriction").
- the imposition, effective August 10, 1988 of a 7 percent asset growth restriction on such grandfathered banks; and
- severe restrictions on the ability of grandfathered banks to cross market the products and services of their affiliates and vice versa.

As discussed below, these new restrictions have been overlayed on comprehensive existing restrictions on transactions between FDIC insured banks and their affiliates embodied in section 23A of the Federal Reserve Act, as well as those additional restrictions on transactions between the securities affiliates and insured banks imposed by section 23B of the Federal Reserve Bank Act (enacted as part of CEBA). When combined, these restrictions virtually prohibit the use of bank assets or insured deposits to provide funds for the activities of securities affiliates.

Since most grandfathered banks were not permitted to engage in the business of commercial lending as of March 5, 1987, the new activities restriction alone would suffice as an impenetrable barrier against such banks funding the activities of their securities affiliates. Clearly an institution that is prohibited from engaging in the business of making commercial loans could not fund the investment activities of any affiliate. In the case of those few grandfathered banks that were engaged in the business of making commercial loans, section 23A of the Federal Reserve Act imposes significant quantitative and qualitative restrictions on virtually every kind of transaction with all affiliates, including of course securities affiliates.

As if these barriers and restrictions were not enough, S. 1886 imposes additional "firewalls" between insured banks owned by bank holding companies and their securities affiliates, including:

- the prohibition on any kind of extension of credit by an insured bank to its securities affiliate or any subsidiary thereof;

- the purchase by an insured bank for its own account of any financial assets of a securities affiliate or any subsidiary thereof;
- the issuance of a guarantee, acceptance or letter of credit for the benefit of any securities affiliate or subsidiary thereof; or
- the extension of credit in any manner to any investment company for which the securities affiliate acts as an investment adviser or whose shares are distributed by the securities affiliate.

In keeping with our support of competitive equality for all providers of financial services, we at American Express would support the extension of these firewalls to grandfathered banks and their securities affiliates.

Mr. Chairman I hope that I have explained in sufficient detail why there can be no possible question of the misuse of insured bank assets in the present transaction and why therefore the first premise of Senator Heinz' amendment falls away. But just as we support the adoption of additional firewalls, we can also wholeheartedly support Senator Heinz' premise that bank holding companies as well as diversified financial holding companies should play on "exactly the same, fair, level playing field." It is in this spirit that American Express joined with other leaders of the financial services industry late last year to form the Financial Services Council.

The Council, a relatively new financial services trade organization, was formed for the purpose of promoting the development of an open and competitive financial services industry that ensures the safety and soundness of the nation's financial system, while increasing the availability of financial products and services and at fair and reasonable prices. In essence, American Express has supported the modernization of our financial regulatory structure so that any company, regardless of its affiliation, would be permitted to enter any sector of the financial services industry anywhere in the world. We have in this regard strongly supported S. 1905, the Depository Institution Affiliation Act, introduced by Senators D'Amato and Cranston. We believe that S. 1905 provides for a truly reciprocal financial structure that places each of the various sectors of the industry on an equal regulatory footing for the first time since the enactment of the Glass-Steagall Act in 1933.

We commend the members of this Committee for including elements of S. 1905 in the Financial Modernization Act (S. 1886) which was overwhelmingly approved by the Senate almost two weeks ago. We sincerely hope that the passage of S. 1886 by the Senate will prove to be but a first step towards comprehensive restructuring of the financial services regulatory framework along functional lines. Such restructuring is crucial in light of the fact that there have been profound changes in our financial markets. Some form of restructuring must occur if we are to continue to benefit from a strong and sound financial services industry.

Today, it is more apparent than ever that diversification lends stability to the financial system. For example, those securities firms experiencing the greatest difficulty in today's volatile markets are clearly not the diversified companies that provide the broad range of financial services. Those firms experiencing the greatest difficulties are the specialists and the under-capitalized firms which serve only a narrow market segment. Their plight is analogous to that which led to the recent failures of depository institutions in the agricultural and energy fields.

Mr. Chairman, to ensure the strength, safety and stability of our national financial system, we respectfully suggest that this committee should not focus its attention on parochial one-issue proposals. If additional capital is to be attracted to the banking and thrift industries then a modern, more rational legal structure is needed. Such a structure would make it possible for U.S. firms to compete more effectively in the international marketplace. Similarly, we should make it possible for domestic firms to increase their diversification and offer a broader range of products and services to consumers at lower cost.

In enacting CEBA last year, Congress pledged to consider the overall structure of this nation's financial system. In passing the Financial Modernization Act this year, the Senate has taken the first step toward that worthwhile and necessary goal. Now is the time for this Committee to rise above parochial orientation and recast the debate in terms of a comprehensive sound national policy. Now that this Committee has moved beyond the Glass-Steagall Act, it is time it moves beyond the Bank Holding Company Act and into the 21st Century.

There is growing recognition in Washington as well as in New York of the need to strengthen our financial system through the attraction of additional capital. This objective can be advanced through the added presence of nonfinancial firms as either owners or affiliates of banks and other depository institutions subject to effective insulation and strengthened regulatory oversight. For that reason, I would like to call your attention to those remaining elements of the Depository Institutions Affiliation Act (S. 1905) which would allow for the establishment of depository institutions holding companies while retaining functional separation. The adoption of these elements would build logically upon the foundation established by S. 1886 and go a long way toward achieving all of these goals.

The Committee may recall that S. 1905 would allow any financial or nonfinancial business to be affiliated with a federally insured bank or thrift, provided the company becomes a depository institution holding company and complies with the other specific regulatory and supervisory provisions embodied in this proposal. A company which becomes a depository institutions holding company would be exempt from ownership and activity restrictions of the Bank Holding Company Act or the Savings and Loan Holding Company Act. Such a company, however, would not only be subject to existing bank supervision and regulatory standards, but also to certain additional restrictions designed to insulate the depository institution from its noninsured affiliated. A depository institutions holding company structure would be entirely optional and would not be required for any company that wished to continue functioning under its current regulatory scheme and existing legal restrictions.

Among the safeguards of existing law specifically which would apply to depository institutions holding companies and their depository affiliates under S.1905 are:

- The prior notification requirements of the Change-in-Bank Control Act and Change-in-Savings and Loan Control Act;
- The affiliate transaction prohibitions and restrictions of Section 23A and 23B of the Federal Reserve Act;
- The interstate banking restrictions of the McFadden Act and the Douglas Amendment to the Bank Holding Company Act;
- The anti-tying prohibitions of the Bank Holding Company Act Amendments of 1970;
- The insider lending prohibitions of Section 22(h) of the Federal Reserve Act; and
- The requirements of the Community Reinvestment Act.

An insured depository institutions affiliate of a depository institutions holding company would also be subject to the same supervisory, regulatory examination and enforcement provisions imposed on any other insured depository institution, and its customers would benefit from the same panoply of consumer protection measures, including truth-in-lending, electronic funds transfer and expedited funds availability laws and regulations.

In one sense, Senator Heinz' amendment performs a useful service. It should remind us that the work begun in S. 1886 must now be carried to its logical conclusion. We believe that the format of S.1905 points the way to a safe, efficient and competitive financial services structure for the future.

Because Mr. Chairman, we at American Express have given much thought to the future strength and competitiveness of the U.S. financial system, we are convinced that the Heinz amendment represents a step in the wrong direction. Aimed as it is at one firm's role in one specific transaction, the amendment does violence to the basic thrust of the modernizing legislation just passed by the Senate. It is a detour from the road traveled by this Committee in approving S. 1886 and would be a serious mistake. And make no mistake, the Heinz proposal represents a significant departure from the underlying principals of the Financial Modernization Act.

While Senator Heinz seeks to entrench two sets of rules concerning the activities permissible to securities firms affiliated with banks -- one for banks owned by bank holding companies and one for banks owned by diversified holding companies -- S. 1886 moves in the opposite direction. Section 102 of the bill passed by the Committee would clearly allow a securities subsidiary of a bank holding company to engage in all securities activities permitted for brokers or dealers registered under the Securities Act of 1934 or for investment advisers registered under the Investment Advisers Act of 1940. This would presumably include full service investment banking, and full service investment banking inherently permits an investment banker to provide bridge financing to its client even it such financing is structured to resemble an "equity investment."

As Senator Sasser has observed, this proposal is in reality drafted in such a way as to affect only one diversified financial services holding company -- American Express -- because of one specific transaction -- the attempt by Beazer P.L.C., a British construction company to acquire Koppers Company, a Pittsburgh based aggregates and chemical producer.

As I mentioned earlier, I am accompanied by Steven Wolitzer of Shearson Lehman Hutton, who is prepared to discuss any issues concerning Shearson's role in this transaction. However, I think it would be helpful if I were to put the Shearson activity into proper perspective relative to the American Express Company.

Inasmuch as the hearing appears to be prompted by the possible acquisition of the Koppers Company by Beazer P.L.C., I would like to make a few points on that subject.

First, the American Express Company holds 60% of the outstanding stock of Shearson Lehman Hutton (SLH) -- the rest of its outstanding stock being held by the public, by Nippon Life Insurance Company of Osaka, Japan, and by the management of SLH.

Second, Shearson is operating in the normal course of its business as an investment banker. This involves a professional and confidential relationship with its client, Beazer, for whom it is providing advise concerning the proposed acquisition, and for whom it is providing bridge financing for some of the funds needed to consummate the transaction. Of course, both functions are normal for investment banks in the United States.

From an American Express Company viewpoint, not only do we think this to be a Shearson transaction and activity in the normal course of its business, but we also view the uproar by some allies of Koppers as ill-informed, provocative, and ill-advised. Ill-informed because of the continued erroneous assertion that somehow Shearson, rather than Beazer, is trying to acquire Koppers, which is simply not true, and strikes the management of American Express Company as a bizarre allegation. Provocative since there have been attacks on the American Express Company and its products (such as the American Express Card) unrelated to a dispute over who will manage Koppers in the future. And ill-advised, since the invocation of government boycotts against the products of an affiliated company sets a dangerous precedent which could be injurious to Pennsylvania interest in the future.

In the transaction, from an American Express Company viewpoint, we see Shearson performing a professional function. We reject the allegations that somehow, through some theory, that an acquisition by a foreign company is somehow "wrong;" that an acquisition attempt which is not by a friend is somehow "wrong;" and that furnishing bridge financing to an established and reputable client is somehow "wrong." All such practices are not only permissible but widespread in the industry. As to foreign investments being represented by American investment banks, this is commonplace. The most recent example makes the point clear. First Boston, an American investment banker, who now represents Koppers, recently represented Campeau (a Canadian company), in the hostile takeover attempt against Federated Department Stores (an Ohio company). Federated itself was represented by Shearson Lehman Hutton. As to hostile takeovers, they are virtually a daily event, as is the furnishing of bridge financing to clients.

We like to think we were not born yesterday and we recognize such allegations are predictable when present management opposes such a transaction . We also regard the various Koppers lawsuits as normal defensive maneuvers and accept that we must allow the judicial process to work its will on those cases.

What strikes us as odd is the involvement of government as an advocate for one side of the proposed transaction, apparently on the assumption that the acquisition by Beazer will somehow cause immediate loss of jobs in Pennsylvania. We believe that government jumped into the fray without taking care to learn about the proposed acquiring company or to familiarize itself with its management and its track record in the U.S. and abroad. It appears to us that anyone who may have attempted to acquire a Pennsylvania company over the opposition of incumbent executives was per se a "bad and hostile" entity, against which sanctions should be taken, including penalities against those professionals who advise it, and punishment for those who have a financial interest in the professional advisor.

Such an interference raises some serious policy questions. For example, should a Pennsylvania company attempt to acquire a non-Pennsylvania company, which did not wish to be acquired, should the home state initiate a boycott of Pennsylvania products? With such action, shouldn't there be some kind of hearing or factual determination by the state, including the State of Pennsylvania, to determine the facts in the case before taking precipitous action? For example, in Pennsylvania, the American Express Company employs over 1300 persons, significantly more than Koppers. Are these employees somehow disenfranchised by state action without any hearing, findings of fact, or other due process of law that permeates our jurisprudence?

Mr. Chairman, in conclusion, there are many sides to this story. There is an American Express viewpoint. It is expressed by the letter sent by me to our Pennsylvania employees on March 31, 1988, a copy of which is attached. It states that the American Express Company, operating successfully in Pennsylvania since 1852, has been a major contributor to the health of the State for over a century. We've been a good citizen; we intend to continue to be so, regardless of the provocative statements and acts of the State. We're proud of our company and our history in Pennsylvania, and we think that those who attempt to smear it are not only unjustified but not acting in the best long-term interest of their own State.

AMERICAN EXPRESS COMPANY
AMERICAN EXPRESS TOWER, WORLD FINANCIAL CENTER, NEW YORK, NEW YORK 10285 5160

HARRY L. FREEMAN
EXECUTIVE VICE PRESIDENT
CORPORATE AFFAIRS AND COMMUNICATIONS

March 31, 1988

Dear American Express Employee:

As you know Shearson Lehman Hutton is representing its client, Beazer PLC, in an unsolicited takeover of the Koppers Company. Because you live and work in Pennsylvania, where most of the publicity is appearing, and since I have responsibility for internal communications, I personally want to be sure you have the facts. Senior Management also wants you to know that you represent a company that has a proud relationship with Pennsylvania that goes back well over 100 years.

Unhappily, much of the media coverage of the Koppers situation has been so one-sided it's hard to grasp the real story. Accordingly, enclosed are copies of the following:

- A letter our Chairman, James D. Robinson III, sent on March 25 to Charles R. Pullin, CEO of Koppers Co., responding to an earlier letter from him.
- A summary of the key facts about Shearson Lehman Hutton's commitment to Pennsylvania and its role in this transaction, which clearly states that Shearson has no interest, itself, in acquiring Koppers and is acting on behalf of its client.

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- Two newspaper advertisements placed by Beazer that make it clear that the interests of Pennsylvania and Pittsburgh would not be damaged by having the Beazer family of companies as a corporate citizen. The ads also reflect that there are two sides to the story, a fact that the attacking parties conveniently have omitted.

It is unfortunate that Shearson's use of a basic investment banking tool -- i.e., bridge financing, which in this case has an innovative feature -- on behalf of a particular client in a particular negotiation should be represented as an attack by Shearson on the economic well-being of Pennsylvania.

American Express and Shearson Lehman Hutton are committed to Pennsylvania. We are good corporate citizens and major taxpayers. We have been for a long time and will be in the future. Here are some things you should know:

- American Express began operations in Erie in 1852, in Pittsburgh in 1913, in Philadelphia in 1915.
- Approximately 1,400 Shearson, IDS and TRS employees live and work in Pennsylvania.
- Shearson, IDS and TRS have a total of 55 offices throughout the state.
- Nearly 27,000 Pennsylvania establishments enjoy millions of dollars of business through the use of the American Express Card. Our travel offices bring additional millions of dollars and thousands of people into the state each year.
- Each year, American Express contributes significantly to philanthropic causes in Pennsylvania.

- American Express Company and subsidiaries own some $450 million of bonds and other securities issued by the state of Pennsylvania and its subdivisions.
- Shearson Lehman Hutton is a major underwriter of equity and debt of Pennsylvania companies as well as of the state and its municipalities.
- Shearson Lehman Hutton makes a market in virtually every bond of Pennsylvania origin.

Recent events suggest that our contributions to the economic development and betterment of Pennsylvania have been overlooked by some of your neighbors. This is unfortunate. We are an important part of the Pennsylvania community and expect to be an important part of its future.

We want you to know we're proud of your accomplishments and the role you, American Express and Shearson Lehman Hutton have played in Pennsylvania's growth. If you feel we can be of help, please let me know.

Best regards,

Harry Freeman

The CHAIRMAN. Thank you, Mr. Freeman.

Mr. Pullin, we're happy to have you to state the case for Koppers. Go right ahead, sir.

STATEMENT OF CHARLES R. PULLIN, CHAIRMAN OF THE BOARD AND CHIEF EXECUTIVE OFFICER, KOPPERS CO., INC., PITTSBURGH, PA

Mr. PULLIN. Thank you, Senator Proxmire.

I am Charles Pullin, chairman of the board and chief executive officer of the Koppers Co. First, I would like to express my sincere appreciation to the committee for the opportunity to testify here today.

Although I'm not an expert on the banking laws, I believe that the basic issue before this committee is straightforward—should companies which own banks also be permitted to make equity investments in commercial and industrial companies or otherwise to control such nonfinancial companies?

In the past, Congress has generally forbidden the affiliation of banking and commerce and this position seems sensible to me.

Unfortunately, the experience of Koppers over the last month vividly demonstrates that the laws now separating banking and commerce are subject to evasion. Today our company is the subject of a hostile tender offer which, if successful, would leave majority control in the hands of two companies, both of which own large FDIC-insured banks—Shearson-American Express, the owner of Boston Safe Deposit and Trust Co.; and National Westminster Bank, the owner of National Westminster Bank U.S.A.

About 1 year ago, Shearson-American Express decided to launch a hostile tender offer for Koppers. Shearson-American Express actively encouraged the Beazer Co. to be its partner in this venture. Shearson-American Express has dominated and actively guided every aspect of the planning and execution of the Koppers takeover attempt. Shearson-American Express proposes to invest approximately $563 million of its own funds in acquiring Koppers, which would represent almost 70 percent of the total equity dollars in the venture.

In addition, it has obtained warrants to purchase an additional 10 percent of all equity stock of Koppers new parent. Shearson-American Express has also agreed to lend an additional $30 million to the venture.

Mr. Beazer has stated that he will run Koppers and that it is his intention eventually to buy out Shearson-American Express. However, Shearson-American Express financial investment in Koppers will inevitably lead to its pervasive control over the management of Koppers. Mr. Beazer may think he will run Koppers, but I doubt seriously if he can really dominate his huge Wall Street partner.

Prior to the initiation of this takeover effort, I had announced that I would be resigning my position with Koppers later this year. In other words, I have no direct personal stake in whether the tender offer for Koppers is successful. However, I do feel a deep commitment to the thousands of Koppers employees throughout this country and to the communities in which they work. If I were assured that after the proposed takeover Koppers might be guided by responsible businessmen, I might not be so inalterably opposed to the present proposal. However, I am faced with the reality that, no matter how well intentioned Brian Beazer may be, he will not ultimately determine the future of Koppers if this takeover is successful. Instead, a large Wall Street investment firm will actually own Koppers and it will continue to pull Mr. Beazer's financial strings after the takeover just as it has to date.

I am further convinced that the decisions of Shearson-American Express will not be based on the true welfare of the company and its employees but rather on finding the fastest way, no matter how ruthless, to recoup its tremendous financial investment. It will then take its money and move on to a next victim. These are strong words, but they are completely supported by the facts.

Shearson-American Express proposes to invest over $560 million of its own capital to acquire Koppers, but I do not believe that Shearson-American Express intends to spend this money for Koppers improvement or long-term welfare.

In conclusion, this committee's inquiry is directed to whether companies such as Shearson-American Express, which own and benefit from federally insured banks, should be permitted to engage in acquisitions of the stock of companies like Koppers. My own position is clear. I do not believe that it is a good or a prudent public policy for such companies to be permitted to derive funds for their predatory efforts from banking institutions. Accordingly, I sincerely hope and request that this committee reaffirm the traditional separation of the financial power of banking from the commercial and industrial sector by supporting Senator Heinz' proposal.

Once again, I thank the committee for the opportunity to express my views and I'll be happy to respond to any questions which you may have. I've submitted a more lengthy statement which I request be included in the record. Thank you very much.

Senator SASSER. Thank you, Mr. Pullin. Your statement will be included in the record as if read.

[The complete prepared statement of Mr. Pullin follows:]

AMERICAN EXPRESS COMPANY
AMERICAN EXPRESS TOWER WORLD FINANCIAL CENTER NEW YORK N Y [illegible]

JAMES D ROBINSON III
CHAIRMAN

March 25, 1988

Dear Mr. Pullin:

I am responding to your letter of March 21 regarding Shearson Lehman Hutton's involvement in the Beazer PLC proposed acquisition of Koppers.

First of all, let me make it very clear that Shearson Lehman Brothers Holdings, Inc. -- which is the parent of Shearson Lehman Hutton, Inc. (Shearson) -- is a separate company with public shareholders and a listing on the New York Stock Exchange. American Express owns approximately 60% on a fully diluted basis. In the Investment Banking and Trading areas, Shearson makes its own decisions under broad guidelines established by its Board. Officers and directors of American Express Company are not involved in individual investment banking matters which are proprietary between the firm and the client.

Shearson's management has assured me that in this transaction, as in all transactions in which the firm is involved, potential conflicts of interest underwent rigorous examination at the highest levels of the firm. In this case, Koppers had no investment banking relationship with Shearson.

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I am also advised that the letter to your chief financial officer was sent with the intention of interesting Koppers in Shearson's advisory services -- a typical marketing letter of solicitation. It was, however, not acted upon by any member of your management team. The letter's author is not a member of Shearson's Merger & Acquisition department and had no knowledge of the proposed acquisition. Nor could he. The firm's policies and procedures explicitly prohibit the M & A department from sharing information on proposed takeovers with other areas of the firm. To abide by a less rigorous policy would violate securities laws, not to mention the integrity of the firm's client relationships. The letter was merely a coincidence and nothing more. Furthermore, in answer to your specific question, neither I nor, to the best of my knowledge, anyone at American Express had any knowledge whatsoever of any accumulation of Koppers stock.

Finally, I am advised that Shearson's investment in the entity created to acquire Koppers will ultimately be sold to Beazer. The transaction was structured in this way to accommodate the firm's client; in no way is Shearson itself attempting to acquire Koppers.

In short, this is a matter between Shearson and its client, Beazer PLC. Incidentally, Beazer, which has enjoyed a very successful record of growth and accomplishment, has been a client for some time. Shearson handled its acquisition of Gifford Hill.

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I am well aware of the concerns of the Business Roundtable about hostile takeovers. As you know, there is a divergence of views. As with any controversial issue, there are honest differences. Certainly, I respect and accept the views of the Roundtable that where abuses exist, they should be eliminated. In the Koppers case, I am not aware of any such abuse.

I also share your concern that one of this country's most pressing issues is to improve its ability to compete. Certainly, any management, if it is to compete globally and build the highest value possible for its shareholders, must pursue effective long-term planning and make adequate investment in research and development, while at the same time showing responsible short-term performance. At American Express, we have a heavy commitment to doing that, as I am sure you do at Koppers.

I understand your concerns in this matter and wish you well, but I must say that any initiatives taken against American Express Company or its services and customers are misguided.

Thank you for writing.

Sincerely,

Mr. Charles R. Pullin
Chairman of the Board
Koppers Company, Inc.
Pittsburgh, PA 15219

To the Employees of Koppers and to the Pittsburgh Community.

On March 3, in our first letter to Mr. Charles Pullin, and in letters to several government officials, we emphatically stated that we intend to build Koppers...not destroy it. We also expressed our understanding of the importance of Koppers to the Pittsburgh community. This is why we are deeply disturbed at recent attempts to create fear and panic about our intentions, and why we would like to set the record straight.

1. We are interested in acquiring Koppers' aggregates business because we believe we can make it an even more profitable, vital enterprise creating greater opportunities for everyone connected with it—employees, communities and customers. This is not an empty promise. In 1985, we acquired Cohn Communities, a homebuilder in Atlanta, Georgia, and then, in 1986, we acquired Gifford-Hill, a construction materials business based in Dallas, Texas. Each of these companies has grown and prospered under our ownership. We invite anyone concerned to contact either of them or Atlanta or Dallas officials to learn whether our acquisition caused harm...or good.

2. We have stated since the outset that we intend to operate Koppers as a separate entity with its headquarters in Pittsburgh. We are builders of businesses. We would hope you will look at our past record and see that we truly are an integral part of the communities where we do business, from Bath, England, to Dallas, Texas, to Hong Kong. We know we need these communities... we can't afford to ignore the importance of being a contributing corporate citizen.

3. As to Koppers' chemical business, we have stated openly and candidly our intention to sell it. We believe that a sale will be beneficial to that business since it, too, will fare far better as either an independent entity or in the hands of a company that is focused on chemicals, rather than on an almost totally unrelated business.

4. We are *not* corporate raiders. Our goal is not to make a quick buck. Rather, we are in the process of creating a vital, dynamic worldwide organization serving many constituencies including employees, shareholders and the citizens of communities around the world. Again, we know we cannot prosper without the dedication and commitment of these individuals—dedication and commitment we know we can only expect if we provide opportunity and resources in return.

Finally, permit us to point out that while the Koppers Board and management have encouraged unwarranted fear and panic in your community, they have been busy at work designing a drastic corporate recapitalization plan for Koppers, including the possible sale of substantial portions of Koppers' operations, that could cause severe disruption to the company's employees and the community.

We have advised Governor Casey, Mayor Caliguiri and other public officials that we were prepared, at any time, to meet with them and explain, firsthand, our intentions. We have offered again and again to meet with Koppers' management to discuss our plans, but, unfortunately, they are unwilling to talk.

These are times of rapid change, and sometimes change can cause uncertainty and fear. Koppers' management has refused our requests to discuss our proposal in a constructive, responsible manner. Therefore, we wanted to try to dispel such problems by giving you the facts—by letting you know our intentions so that you will understand our hopes for a growing, prosperous Koppers providing opportunity for employees and making a major contribution to the communities of which it is a part.

Thank you.

Sincerely,

Brian C. Beazer
Chairman and Chief Executive
Beazer PLC

Thomas B. Howard, Jr.
Chairman and Chief Executive
Gifford-Hill & Company, Inc.
Director Beazer PLC

BEAZER/KOPPERS TRANSACTION

SHEARSON AND PENNSYLVANIA

- As a major employer and responsible corporate citizen in Pennsylvania and Pittsburgh, Shearson has an abiding and long standing concern for the economic welfare of the city and state.
- Shearson employs more than 800 people in 32 offices throughout the state, of whom 150 are employed in the firm's two Pittsburgh branches. Today's total is double that of five years ago and four times the 1978 figure. Many of these employees joined the firm as a result of mergers with weaker firms. Some of these firms would have closed their doors and laid off employees had Shearson not continued to build its Pittsburgh business.
- Shearson's charitable, civic and educational contributions in the state exceeded $700,000 in 1987. These contributions are an expression of the firm's commitment to the communities where our employees live, and we will continue the firm's contribution program regardless of any actions taken against Shearson.
- Shearson plays a significant role in fueling the growth of local corporations. In 1987, Shearson underwrote $1.63 billion in equity and $649 million in corporate debt of Pennsylvania-based companies.
- Shearson underwrote nearly $7 billion in debt issued by the state and its municipalities in 1987. At the same time, the firm makes a market in virtually every bond of Pennsylvania origin, with average daily trading volume exceeding $5 million. Shearson is one of a handful of national brokerage firms with Pennsylvania-based operations for the market making, placement and trading of Pennsylvania securities.

SHEARSON'S ROLE

- Shearson is acting as Beazer's investment banker. In addition to providing a subordinated loan or preferred stock—forms of bridge financing typically extended by investment bankers—Shearson will make a small investment in the entity created to acquire Koppers. The investment has been mistakenly referred to by Koppers and others as an equity stake even though it has none of the characteristics of traditional equity investments. Shearson does not control BNS nor does it have meaningful voting rights.

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- Shearson's investment will be liquidated through a sale to Beazer, not Koppers. This sale will be accomplished in one of two ways: Beazer will either exercise its right to purchase the entire investment at any time after the first anniversary of the transaction's completion or Shearson will exercise its right to sell the entire investment to Beazer at five and one half years after the transaction is completed.

  Since the purchase price has been fixed at Shearson's cost plus an interest rate of 25 percent per annum, it will remain unaffected by any change in the value of Koppers. Given the extremely high return of the investment, it is expected that Beazer will exercise its option after the first year. In no way is Shearson itself attempting to acquire Koppers.
- Shearson's reasons for providing Beazer with these financing arrangements are no different than those underlying our other investment banking relationships—governmental as well as corporate. In both cases, the firm is meeting the financing needs of clients with legitimate business interests.

BEAZER'S ROLE

- Beazer's objective is not to reap short-term financial gains but to become a worldwide supplier of construction materials, of which Koppers would become an important part.
- Beazer's record speaks for itself in every country where the company operates, including the United States. A case in point: In 1986, Beazer acquired Gifford-Hill, a Texas-based construction materials manufacturer. For the two years Gifford-Hill has been an independently managed subsidiary of Beazer PLC, the company has seen both its revenues and activities increase.
- Beazer's intention to sell Koppers' chemicals division if the company is acquired has been misconstrued to mean that the employees of the chemical division will lose their jobs. It is neither in Beazer's interest nor that of any prospective owner to destroy an asset valued at some $550 million by laying off the employees responsible for creating that value.
- It is Beazer's objective to provide fair value to Koppers' shareholders, many of whom are Koppers' employees or citizens of Pittsburgh and Pennsylvania. The marketplace has affirmed the credibility of Beazer's bid. The company's most recent offer nearly doubles the average price of Koppers' stock in the 30 days before the first offering on March 3.

3/30/88

STATEMENT OF CHARLES R. PULLIN
CHAIRMAN OF THE BOARD AND CHIEF EXECUTIVE OFFICER
KOPPERS COMPANY, INC.
PITTSBURGH, PENNSYLVANIA

BEFORE THE SENATE COMMITTEE ON BANKING,
HOUSING AND URBAN AFFAIRS
APRIL 1, 1988

I am Charles Pullin, Chairman of the Board and Chief Executive Officer of the Koppers Company. I would like first to express my sincere appreciation to the Committee for the opportunity to testify here today.

Koppers was founded in 1907 and is headquartered in Pittsburgh, Pennsylvania. It is primarily engaged in the production of chemicals and construction materials and services with significant emphasis on road building. Koppers employs approximately 1,300 people in the Pittsburgh area and 12,300 nationwide in 40 states. As with so many other industrial companies in our country, Koppers has experienced difficulties over the past years as a result of the need to modernize its physical plant, meet the challenge of new environmental responsibilities and compete with increasingly vigorous foreign and domestic competition. However, through a concerted effort on the part of our management and our employees, we have gone from a position of marginal economic health several years ago to one of growing efficiency and profitability today. It has not been an easy process, but I am proud of our accomplishments and was optimistic for the future of our company.

As you know, a little over a month ago, Koppers became the object of a surprise attack by a consortium of three large multinational companies: Beazer, National Westminster Bank and Shearson Lehmann Hutton, a subsidiary of the American Express Company. These companies have announced their intention to acquire all of the stock of Koppers through a hostile tender offer. They then propose substantially to dismember Koppers in order to pay for the acquisition and integrate the remnants into the Beazer organization. This development has disrupted the orderly operations of Koppers and resulted in huge expenses. It has also justifiably alarmed our employees and the people of the communities where we operate.

I am, of course, concerned about the outcome of the attack on Koppers. However, I understand that the business of this Committee today involves a far larger issue than the future ownership of one company. Although I do not pretend to be an expert on the banking laws, I believe that the basic issue before this Committee is straightforward: Should companies which own United States banks also be permitted to make equity investments in commercial and industrial companies or to otherwise exercise influence and control over such non-financial companies? In the past, Congress has generally forbidden the affiliation of banking and commerce. This position has always seemed sensible to me. Any businessman who has to deal with the financial power of our banking institutions understands the wisdom of limiting the ability of banks to invest directly in commercial and industrial businesses.

Unfortunately, the experience of Koppers over the last month vividly demonstrates that the laws now separating banking and commerce are subject to evasion. Today, our company is the subject of a hostile tender offer which, if successful, would leave majority control in the hands of two companies, both of which own several large FDIC-insured banks in the United States. In particular, Shearson/American Express is the owner of several U.S. banks, one of which is Boston Safe Deposit & Trust Company, a major banking institution. I believe that such a situation deserves the closest scrutiny of this Committee, which is responsible for regulating both the banking and securities industries.

Approximately one year ago, Shearson/American Express apparently decided that it could enhance its competitive position in the investment banking arena by structuring a hostile takeover using its own capital to acquire a major equity position in Koppers. I assume that this development came as a creative alternative to the discredited "junk bond" method of financing corporate takeovers. In order to test its new scheme, Shearson/American Express actively and continuously encouraged the Beazer company to be its partner in this venture. Beazer and Shearson/American Express then solicited a third partner,

National Westminster Bank PLC, a large English bank which owns several U.S. banks and is a registered bank holding company under our Bank Holding Company Act.

Shearson/American Express has dominated and actively guided every aspect of the planning and execution of the Koppers takeover attempt since its secret initiation one year ago. Should the tender offer be completed as proposed, Shearson/American Express in my view will continue to dominate the enterprise for an extended period.

Shearson/American Express would own 95 percent of one of two classes of voting securities of the new Koppers parent company and would elect two of its four directors. It would also own an entire class of the parent's preferred stock which Shearson itself has characterized as "equity." Most significantly, through its purchase of these equity securities, Shearson/American Express proposes to invest approximately $563 million of its own funds in acquiring Koppers, which would represent almost 70 percent of the total equity dollars in the venture. In addition, in return for promising to contribute further equity funds, Shearson/American Express has obtained warrants to purchase an additional ten percent of all equity stock of Koppers new parent, potentially raising its total common stock equity to above 50 percent. Finally, Shearson has agreed

Senator SASSER. All our witnesses have testified now and we'll turn to Senator Heinz for his questions.

Senator HEINZ. Mr. Chairman, thank you very much.

I'd like to start with Mr. Beazer. Mr. Beazer, as I understand it, you requested through another member of this committee the opportunity to testify here today, is that correct?

Mr. BEAZER. I did, Senator Heinz.

Senator HEINZ. Now you have indicated in your statement and I believe you've said on other occasions that you do intend to sell the chemical company of Koppers. Is that correct?

Mr. BEAZER. That is correct, Senator Heinz.

Senator HEINZ. And I believe you further stated that you do not see a vast dislocation of people. How many people are engaged working at Koppers in Pittsburgh, PA?

Mr. BEAZER. I have been told that there are 660 people working in the head office of Koppers in Pittsburgh. I read that in a newspaper article. I have had no access to inside information from the organization at all and I've worked entirely on printed material.

Senator HEINZ. Have you any idea how many of those people are involved with the work of the chemical company?

Mr. BEAZER. Approximately 2,000.

Senator HEINZ. Now you have indicated that your company has an unblemished record of building from the ground up, that you aim to build and not destroy, that you believe in autonomy in local management. But how can those beliefs be put into practice if you sell the chemical division to somebody else?

Mr. BEAZER. Senator, we only deal in those industries which we have a full understanding of. We acquired Gifford Hill in Texas. That was a large acquisition. There were approximately 3,500 people there. In that organization, we have not one Englishman working.

Senator HEINZ. That wasn't my question. My question is how can you guarantee what will happen to Koppers and its several thousand chemically related employees if that division is sold to somebody else? Regardless of your good intentions, your fine management style, or any of the other attributes that you may attribute and in fact may be true, how can you warrant that once you have sold the chemical division that any of that can be true?

Mr. BEAZER. There are two points I think I have made on a number of occasions, Senator. First of all, I believe that much of the wealth of the chemical company is its management, staff and employees, and any acquirer is not going to get rid of those staff or he is dissipating the very asset that he is purchasing.

Second, we have said in letters to including the Governor of Pennsylvania that we will endeavor to see that there is the minimum dislocation to the staff involved.

Senator HEINZ. Well, that's all very well and good, but as you know, the Koppers Co. building stands directly next to another building—the Gulf Oil building. That building is vacant because another oil company, Chevron, took over the Gulf Co. and decided that it didn't need two sets of employees.

If Koppers' chemical business is sold to another chemical company, why would that not be likely to be a precedent and why would one not realistically expect the Koppers Co. to become as dark as the Gulf building has become?

Mr. BEAZER. In the first place, as I understand it, Senator, the Gulf building was emptied by the "white knight." We are an original tenderer. Second, we intend to remain in Pittsburgh. As I've said in the testimony here and elsewhere, wherever we work we become a local organization and I would be very surprised if after a reasonable period of time we are not expanding activities rather than decreasing them.

REPAYMENT OF FINANCING

Senator HEINZ. Let me ask you about the deal that you have with Shearson. Now as I understand it—correct me if I'm wrong—Shearson may provide $540 million in short-term bridge financing in the form of series B preferred stock or as loans. Is that correct?

Mr. BEAZER. That is correct, Senator.

Senator HEINZ. How is the bridge financing to be repaid?

Mr. BEAZER. The bridge financing is fully described in the tender documentation which we have sent out when we sent out our $45 financing and then our $56 and our $60, and I really believe that I can't add much more fully to that.

Senator HEINZ. Well, you've got to repay it. How is it going to be repaid?

Mr. BEAZER. We have explained, sir, in the——

Senator HEINZ. Would you explain it to me because I haven't read it?

Mr. BEAZER. I beg your pardon, Senator. The documentation shows that there will be a series of subordinated debt.

Senator HEINZ. Is there any possibility that those would be high yield securities?

Mr. BEAZER. If I understand what you mean by high yield, that would be high yield.

Senator HEINZ. At what point or when would you expect those securities to be issued?

Mr. BEAZER. Again, sir, this is fully explained in our documentation. I think rather than me——

Senator HEINZ. Well, we're trying to create a hearing record and I'd appreciate it if you could just answer the question. It would be helpful.

Mr. BEAZER. As soon as is possible in the marketplace.

Senator HEINZ. If Shearson provides the bridge financing by purchasing preferred stock, won't that make Shearson a long-term equity partner with Beazer PLC?

Mr. BEAZER. The preferred stock is clearly equity, but the whole system is designed so that Beazer has full control. I think it must be clearly seen that for every share that the other parties have, our shares have four votes per share. I think it also must be clearly seen that once there is parity of directors, each of our directors will have three votes for every one vote that the other directors have.

I think that with respect the thought of a Wall Street banker running an aggregate concern is really not in the cards. We intend to take control of this from day one. The whole system is so designed that we are absolutely in control and we will be running it because we have the balance of power in both the directorate and the shareholdings.

Senator HEINZ. As you've said a moment ago, as I understand it, the bridge financing would be created by the purchase of preferred stock which would be in turn an equity investment by Shearson. If Shearson could not market high yield securities or alternatively if the market conditions simply did not make it possible, I gather than under those circumstances Shearson would be, whether willing or not, a rather long-term equity partner with you. Is that correct?

Mr. BEAZER. There is no set of circumstances, Senator, when Beazer will not have absolutely and complete control of this venture.

Senator HEINZ. It's not a question of whether you have control over the venture. The question is whether you have an equity partner.

Mr. BEAZER. We have described this fully in the documentation, which is exceedingly complex I admit and it takes several pages to describe it.

Senator HEINZ. But my question was quite specific and not complex. My question was, if Shearson has a preferred equity position and market conditions do not permit the refinancing of it through high yield securities or for whatever reason, you're going to have an equity partner whether you have more votes than them or more highly weighted shares or more votes on the board being beside the point. You're going to have an equity partner in Shearson for a very long time to come, aren't you?

Mr. BEAZER. I very much doubt that that is a likely contingency.

Senator HEINZ. Were the contingency to be the case, would that not be the case?

Mr. BEAZER. They would have an interest in the company. The actual voting equity control would be with us.

Senator HEINZ. Well, we know there are many kinds of ownership positions. The question is not whether they have a voting control. The question is not whether they have any votes at all. The question is whether they have ownership in the company and would have for a long time to come, and I gather that your answer is that if they couldn't market the securities to take out the preferred stock, they would remain preferred equity holders until such time as they could, if ever, do that. Is that not correct?

Mr. BEAZER. Allow me to say, Senator, that this is no different from the practice of a thousand companies. If you look at Camp——

Senator HEINZ. It may not be. I don't claim to be an expert on housing or anything else. I'm simply trying to get an answer.

Mr. BEAZER. I don't claim to be an expert on Wall Street practices. I am an expert in the construction industry. All I can tell you is, that in my view, this scheme follows the established practice in Wall Street and if you are saying that is the established practice, so be it. But if you look at any of the recent schemes you will see that the point you have made is always there.

Senator HEINZ. So I gather you agree with the question—Mr. Chairman, my time has expired. I'll come back.

Senator SASSER. Thank you, Senator Heinz.

Mr. Freeman, traditionally investment banks, as you know, have advised clients on how to raise money through debt and equity offerings. They've begun, in the past few years to advise their clients on mergers and acquisitions, but heretofore they have not become corporate raiders by taking large equity interest in mergers and acquisitions.

I think you know that I have a high regard for the investment banking industry. I think it's done its job very well. But what about clients who come to investment banks now, aren't they going to be worried about giving the investment banks access to their confidential information? Aren't they going to be concerned that the investment bank that they come to might use that confidential information as a means of engaging or forming a coalition to formulate a hostile takeover?

INVESTMENT BANKS AND CONFIDENTIAL INFORMATION

Mr. **Freeman**. Senator Sasser, I can't agree with some of your premises frankly. It's been many, many decades and not recently that investment banks have been both financial advisers and have actively participated in helping one company acquire a second company.

Second, as to the characterization of investment bankers actually becoming raiders, I would have to reject that characterization because, as I've said earlier in my testimony, Shearson Lehman Hutton is providing bridge financing and is not part of the acquisition.

Senator **Sasser**. Well, you're taking an equity position, are you not?

Mr. **Freeman**. Not really. Shearson is taking a short-term, temporary equity position. In no case will Shearson exercise control nor is it Shearson's intent to acquire Koppers.

Senator **Sasser**. Well, the Wall Street Journal says you're taking an equity position and most unbiased neutral observers say you're taking an equity position. I think Koppers would say you're taking an equity position. You wouldn't agree with that?

Mr. **Freeman**. I wouldn't agree with what Koppers has said. I believe that we've just heard from Mr. Pullin and he doesn't even have the name of our company correct, so I'm not quite sure of his characterization of our participation.

If I might, Mr. Chairman, I'd like to have Mr. Wolitzer from Shearson Lehman answer your very specific questions on what is the custom or on other technical points, if I may.

Mr. **Wolitzer**. With respect to your specific question, Senator——

Senator **Sasser**. Would you identify yourself for the record, please?

Mr. **Wolitzer**. Yes. I am Steven Wolitzer. I'm a managing director with Shearson Lehman Hutton.

With respect to your question regarding the confidentiality of information and our relationship with our clients, I think I can only tell this committee that in fact that is something that we have the highest and utmost regard for. It is this very transaction where we are representing our client as financial adviser as well as providing financing for that transaction to take place. There are no allegations here with respect to confidential information. I can assure you that it's the common practice of our firm and most firms on Wall Street that there would not be a situation where we are allowing access to confidential information with respect to somebody else. We are representing our client. We have represented this client before and that is our primary concern and that is our business practice.

Senator **Sasser**. Well, my question is really this. When someone comes to an investment banker and asks them to help in arranging for loans, or to raise some money through debt or equity offering, obviously they are going to offer confidential financial information about their company. If it gets around that the investment banker is willing to an equity interest in concert with someone who wishes to take over the former client, it looks to me like it's going to have a chilling effect on corporations coming to investment bankers. You don't agree with that?

Mr. **Wolitzer**. Well, let's take this particular transaction, Senator. We are working with our client, Mr. Beazer. We have undertaken studies based upon his analysis of the industry, his knowledge of the industry. We have worked with only the public information available to us with respect to the Koppers Co. We can only rely that the public statements that the company makes is correct. Assuming that that public information is correct, we represent our client in formulating this transaction.

Senator **Sasser**. Well, let me ask Mr. Pullin at Koppers a question and maybe we'll shed a little more light on this.

Mr. Pullin, Dr. Greenspan testified before this committee about 2 weeks ago on the subject of the stock market crash and he said that since the crash, corporations have not returned to equity markets to raise capital, despite the reduction in volatility. The volume of new stock issued by nonfinancial firms in January and February was the lowest for these 2 months in almost a decade.

But over this same period corporate takeover activity has increased dramatically. For example, in my own State we saw Federated, the owner of one of the biggest department stores in our State, beset by swarms of offers and counteroffers and I understand that when all the dust settles some $200 million is going to be paid to investment bankers and lawyers just in fees and, of course, this is going to have to come out of the corporate hide of Federated.

Now I'll ask you, Mr. Pullin, do you see that this corporate takeover activity is discouraging companies from going into the equity markets to raise capital? Are they afraid that their investment banker is going to turn on them? Are they spending too much time buying back equity out of fear of takeovers instead of raising equity? If this is actually happening, what does this mean to the capital raising process in this country? How is business going to raise the money that we need to modernize our economy and to remain competitive? What's your response to that combination of question and answer?

Mr. **Pullin**. Well, that's an extremely difficult question. The market in 1988 has been buoyed upward by a frenzy of takeover activity. This adds a kind of casino atmosphere I believe to the market and not a capital raising atmosphere.

We have conjectured after being the recipient of this hostile tender offer that prudent management in the future may think seriously about getting a signed standstill agreement before it proceeds with an investment banker.

Senator SASSER. Well, my time has expired. Senator Gramm.

Senator GRAMM. Thank you, Mr. Chairman.

Mr. Pullin, I've glanced through your testimony and I listened to your oral testimony and I never once heard you mention the stockholders. Are they part of your company?

Mr. PULLIN. Absolutely.

Senator GRAMM. Are you concerned about them?

Mr. PULLIN. Very much, sir.

Senator GRAMM. Have you got any loyalty to them?

Mr. PULLIN. An extreme amount of loyalty to shareholders and we've conducted our affairs for many years with the firm idea of building value for shareholders in mind.

Senator GRAMM. Well, I thought it was interesting in listening to your statement, you talked about Pittsburgh, and you talked about employees, and you talked about hostile tenders, and you talked about attacks, but you never ever mentioned the shareholder.

Mr. PULLIN. Well, the shareholder, if this hostile tender offer goes to completion, will be significantly rewarded. Senator, if you will, we thought that we had done a pretty good job in building shareholder value over the past number of years. The price of Koppers exceeded slightly $50 in I believe September 1987.

Senator GRAMM. How did you know this tender was hostile? How did they act that made you think of them as hostile? Did they try to bribe somebody?

HOSTILE TAKEOVER

Mr. PULLIN. It had all the earmarks of a hostile tender offer. The first time I knew of it—and as I understand this group of companies had been thinking of this and acquiring information on the Koppers Co. for about a year—and the first time I knew of this activity was when I read it in the pages of the Wall Street Journal.

Senator GRAMM. But how did you know it was hostile? I'm trying to come up with what is the meaning of these words—hostile, attack—what does that mean? Who were they attacking?

Mr. PULLIN. I would say that if I didn't think of it, having been launched under those circumstances, as hostile, I probably would not be very alert.

Senator GRAMM. But who was it hostile to?

Mr. PULLIN. It's hostile to the Koppers Co. and all of its constituencies.

Senator GRAMM. Is it hostile to the shareholders? I understood that the offer entailed a price per share that was higher than what the market was bearing. Was it hostile to the shareholders?

Mr. PULLIN. Well, that is not correct, Senator.

Senator GRAMM. They tried to buy at lower than people could sell their stock for on the market?

Mr. PULLIN. Strange as it might seem, on the day that the tender offer was launched, the market was trading at a price higher than that tender offer. That was $45 a share and the market was something over $45.

Senator **Gramm**. So is it your feeling the market had responded to the offer? I've never heard of anybody buying out a company by offering to buy it for less than the market valued it.

Senator **Heinz**. You just did, Senator.

Mr. **Pullin**. I guess it was my feeling that there had been a leak and that leak had caused the price of Koppers shares to escalate and these folks wanted to get their tender on the record.

Senator **Gramm**. If the offer had not included a participation by Shearson, would you be opposed to it?

Mr. **Pullin**. I don't know.

Senator **Gramm**. Mr. Beazer, let me just say there are a lot of things I could ask you. I don't have a dog in this fight, so far as I know. So I just would like to say that you may sound like an Englishman, but you think like a Texan. [Laughter.]

Your line, "The United States is a country where limited government will allow unlimited opportunity" is a line I wish that were totally true, but I have to admit, Mr. Chairman, that I continue to be absolutely astounded that here, in the greatest capitalistic nation on Earth, every time there is an attempt by one set of managers to buy out another one in a company that has political power in a State that has obviously, as all States do here, people representing their interests in Congress, suddenly this becomes a political issue. And I think it is very bad policy. I think it's very harmful to America's interests and I am adamantly opposed to it.

Now it seems to me that one might look at what investment bankers are doing, and there might be under some set of circumstances a problem involving that. If I thought that that was really the problem we were debating here I would feel better about it. The problem is, I see this as just a way of getting into this whole issue of trying to prevent the market system from working. Frankly, Mr. Beazer, I don't know why you want to buy something in Pennsylvania when there are so many things in Texas for sale. [Laughter.]

And in the long run, nobody ever lost money by investing in Texas. I want you to remember that, just in case the coercive rotten power of government stops this deal from going through.

Mr. **Beazer**. Senator, may I say that we have already purchased a fair chunk or a modest chunk of Texas to date and we are very pleased with that and our colleagues there.

I must say that I would like to register my surprise. I have been coming to the United States on and off for 26 years. I have greatly admired it as the best free speech democracy in the marketplace and I am absolutely amazed that here is a tender on the table at $60 where the market price is less than that, and the management are not talking to us about that issue. That appears to me to be a negation of shareholders' rights. The shareholders are in fact being disenfranchised and I thought that that was not one of the policies of the United States of America and of your very great country and economy.

Senator **Sasser**. Senator Shelby.

Senator **Shelby**. Thank you, Mr. Chairman.

SHAREHOLDERS' RIGHTS

I would like to follow up on what Senator Gramm was talking about, the shareholders' rights here. We are all interested, I assume, in the jobs in Pennsylvania or in my State of Alabama or in Texas or Florida or Tennessee or wherever and that the Koppers Co. has brought there. In my State of Alabama, we have some employees there. I don't know the exact number, maybe a couple of hundred, and we're glad they're there and we hope that whatever happens here that if Koppers remains as it is that you're going to continue to grow and you're going to be well managed.

But there is an overriding interest here that the shareholders own the corporation and we benefit from this in the various communities and so forth. I think you have to start from that premise and the chairman of Koppers here has acknowledged this in his testimony a few minutes ago—a little belated perhaps.

If Koppers is sold to American Express and to the British concern, how are they going to pay for it? Obviously, they are going to pay for it by selling off stuff or increasing a tremendous amount of business somewhere. They're going to have to do it some way. I would like to hear the chairman of Koppers on that. How are they going to pay for it if that happens?

Mr. PULLIN. Well, I'm not privy totally to the plans.

Senator SHELBY. I understand that, but how would you surmise?

Mr. PULLIN. My guess—informed guess I might add from having read, they, first of all, will attempt to sell the chemical and allied products business of the Koppers Co. I think further they have stated that they must sell a sand and gravel operation in southern California. My instinct beyond that tells me that they will continue to sell properties of Koppers until they get their indebtedness to a position which they feel they can handle. Now I'm not privy to their plans, but my instinct tells me that.

Senator SHELBY. How long have you been with Koppers?

Mr. PULLIN. I've had two hitches with the Koppers Co. I wasn't kidding when I said earlier that at the close of this year I had planned to retire. I first began with Koppers in 1946. I was with them for about a 12-year period. I was gone for an 8-year period after that where I was involved in I guess what you might call pure construction, and then I've been back with Koppers since 1966.

Senator SHELBY. Will the shareholders be better off—will the stockholders be better off if Koppers stays as it is or will they be better off if it were sold? I think that's going to be the central question.

Mr. PULLIN. In my judgment—and I have some perhaps bias in this regard——

Senator SHELBY. You also have some knowledge because you're on the other side.

Mr. PULLIN. Out of knowledge, I think that the Koppers Co., its shareholders, its employees, its communities, will be better off under the management that now exists. And there's a subtle fact to all of this. The chemical and allied products portion of the Koppers Co. began in business back in the 1920's. As many chemical companies, it has significant environmental legacies which we have to lend an additional $30 million on an unsecured basis. (I attach a summary of the overall financing arrangements.)

Let me emphasize that Shearson/American Express will have no real guarantee that it can recover its investment other than through the operations or, more likely, the dismantling of Koppers. This investment is far different from the conventional secured loans being advanced by Citicorp and other banks in the amount of over $1 billion to provide further financing of the takeover.

Mr. Beazer has stated publicly that it is his intention to eventually buy out the huge investment of Shearson/American Express. But I respectfully submit that, notwithstanding Mr. Beazer's wishful thinking, Shearson/American Express' interest in and influence over Koppers will ultimately go far beyond mere "creative financing." Shearson/American Express' huge investment in Koppers will inevitably lead to its pervasive and continuing influence and control over the management of Koppers. As a matter of economic reality, Shearson/American Express will also call the shots concerning how Koppers is cannibalized to pay off its own equity position. For example, Shearson/American Express has already asked for and has been granted a percentage of any Koppers assets sales as "commissions." I also understand that Shearson/American Express has even pressed to have veto power over the selection of Koppers assets to be liquidated.

Mr. Beazer may think he will run Koppers, but I doubt seriously if he can really dominate his Wall Street partner.

Some months ago, prior to the initiation of this takeover effort, I had announced that I would be resigning my position with Koppers later this year. I am proud of my record with the company but felt that it was time to hand over management to others whom I regard with great confidence and respect. In other words, I have no direct personal stake in whether or not the tender offer for Koppers is successful.

However, I do feel a deep commitment to the thousands of Koppers employees throughout this country and the communities in which they work. If I were assured that after the proposed takeover, Koppers would be guided by competent and responsible businessmen whose primary interest was in the welfare of the company and its employees, I would by no means be so inalterably opposed to the present proposal.

Frankly, I have no personal quarrel with Brian Beazer. However, I am faced with the stark reality that, however well intentioned he may be, Mr. Beazer will not ultimately determine the future of Koppers if this takeover is successful. Instead, a large Wall Street investment firm will own Koppers and it will continue to pull Mr. Beazer's financial strings after the takeover, just as it has to date. I am further convinced that the decisions of Shearson/American Express will not be based on the true welfare of the company and its employees, but rather on finding the fastest way, no matter how ruthless, to recoup its tremendous financial investment so that it can take this money and move on to the next victim.

I admit these are strong words, but they are completely supported by the facts. Shearson/American Express proposes to invest over $560 million of its own capital to acquire Koppers. But I do not believe that Shearson/American Express intends to spend this money for the company's improvement or long term welfare. Shearson/American Express instead intends, as I am sure those here will admit, to insist that Mr. Beazer return these funds no matter what the cost to Koppers, its employees, and the communities in which they live and work.

There are many people who maintain that this type of predatory corporate investment banking practice is justified by economics. For example, puzzled over Koppers vigorous defense, Mr. Beazer was quoted last week in a Pittsburgh newspaper as saying "I come from a society where acquisitions and takeovers are almost entirely dealt with on a market basis. The economics of the thing controls the thing." I personally do not subscribe to such a cold-blooded view. However, I am sure that many on Wall Street in particular would wholeheartedly agree with Mr. Beazer's position.

In conclusion, I understand that this Committee's role today is a relatively limited one. Your inquiry is directed to whether companies such as Shearson/American Express which own and benefit from federally insured banks should be permitted to engage in acquisitions of the stock of companies like Koppers. My own position is clear. I do not believe that it is a good or prudent public policy for such companies to be permitted to derive funds for their predatory efforts from banking institutions subsidized by the federal insurance system. Accordingly, I sincerely hope and request that this Committee reaffirm the traditional separation of the financial power of banking from the commercial and industrial sector by supporting Senator Heinz's proposal. I would further suggest the Committee may wish to examine whether the recently passed Proxmire Act would inadvertently permit bank holding companies to engage in the type of equity investments that Shearson/American Express claims are legitimate investment banking techniques.

Once again, I thank the Committee for the opportunity to express my views and I will be happy to respond to any questions you may have.

BNS, INC.
(Parent Company Only)
CAPITALIZATION
($ Millions)

	AT TENDER	AT MERGER
SHORT-TERM DEBT:		
Citicorp financing - temporary	$ 864	$ -
Citicorp financing - permanent	-	375
Total Short-term debt	$ 864	$ 375
LONG-TERM DEBT:		
Shearson -Senior Subordinated Notes - Unsecured	$ -	$ 30
Citicorp financing - permanent	-	812
Total Long-term Debt	-	842
STOCKHOLDERS' EQUITY:		
Common Stock:		
Class A - Beazer - 490 shares	25	25
Class B - Shearson - 461 shares	23	23
Class B & C - Natwest - 49 shares	2	2
Total Common Stock	50	50
Preferred Stock:		
Class A - Beazer	325	225
Class B - Shearson	540	540 A
Total Preferred Stock	865	765
Warrants: Shearson	-	- B
Total Stockholders' Equity	915	815
Total Capitalization	$ 915	$ 1,657

A May be converted into Senior Subordinated Notes - Unsecured

B Shearson has an option to purchase a fully-diluted 10% equity interest been endeavoring to cure—good years and bad years. We've come up with the capital to cure these problems.

The grouping together of the chemical and allied products business with what we call construction materials and services, the steady cash flow that's come out of the construction materials and services business has in many cases funded the costs for a solution of the environmental liabilities. If those businesses are separated, this is a real consideration.

Senator **Shelby**. Mr. Beazer, do you have any comment?

Mr. **Beazer**. Senator, the 10-K has recently been published of the Koppers Co. and to my knowledge on three separate occasions the directors say that any environmental problems are not likely to be of material consequence. Therefore, I cannot see that that can be a major problem.

In addition, whoever owns whatever section of Koppers, they will have the responsibility of cleaning up the environment where they are in breach of any regulations. The chemical company in Koppers could well be in a happier place if it was part of a larger chemical combine. The chemical industries today are surrounded by giants because of the research and development that is necessary.

Last, whilst the chairman may be absolutely right in himself thinking the shareholders would be better off staying with Koppers, it is clear the shareholders and the market do not think that that is the case as they would wish to accept the tender that's on the table.

Senator **Shelby**. Mr. Chairman, my time has expired.

Senator **Sasser**. Senator Graham.

Senator **Graham**. Thank you, Mr. Chairman.

I have a question for Mr. Freeman. Mr. Freeman, margin requirements were instituted following the 1929 crash to make certain that at least real money was behind stock investments. Recently we've seen highly leveraged takeovers where more than 90 percent of the stock is bought through a loan. The Koppers deal would be an example of such an arrangement.

Do you believe that these deals undermine the intent of the margin rule?

MARGIN REQUIREMENTS

Mr. **Freeman**. Senator, I'm not that familiar with the technical aspects of the margin rules and I would rather not render any type of opinion which would be considered professional on the margin rules. I would say that I believe to the extent that I am familiar with the proposed transaction, I've been told it's been quite adequately capitalized in terms of equity. It's not too thin. But I would defer to Mr. Wolitzer of Shearson Lehman on that.

Senator **Graham**. Would any other members of the panel care to comment on the question of whether this type of structured arrangement violates the law or the intent of the margin rules?

Mr. **Wolitzer**. Well, Senator, I can tell you that all disclosures with respect to the structure of this financing have been outlined in all the documents, specifically the offer to purchase that has been forwarded to the SEC. Unfortunately, with respect to some of the specific issues that you're asking about now, they are the subject of litigation. It's unfortunate that because of the litigation with respect to this ongoing transaction that I really am unable to respond to that more fully.

But as I mentioned, there is considerable detail with respect to the structure outlined in all the public documents that are filed.

Mr. **Beazer**. Senator, could I comment, obviously not on the margin rules because of what Mr. Wolitzer said, but did I hear you say that 90 percent was leveraged in this transaction? Allow me to point out that our own equity at the start of this transaction is approximately $350 million. In conversations with Citicorp, who are our bankers in this issue, they made it quite clear that this was higher than the average which was common practice in this field and they felt fully relaxed about it. We have a fully financed tender on the table at $60 and we were oversubscribed in our syndication attempts. It indicates to me, therefore, that the banking community is fully happy with the equity that we have in this transaction and that they will want us, Beazer, to be first in line for the rest. I think that one can assume that most people consider that there is adequate equity for the funding of this scheme.

Senator **Graham**. Thank you, Mr. Chairman.

Mr. **Freeman**. Mr. Chairman, may I just ask, since Mr. Wolitzer has made a number of statements, he has a written statement about Shearson Lehman Hutton in this transaction and I ask that that be introduced into the record also.

Senator **Sasser**. Yes, it will be included in the record.

Mr. **Freeman**. Thank you very much.

[The complete prepared statement of Mr. Wolitzer follows.]

Senator SASSER. Mr. Pullin, the question of your shareholders came up a moment ago and I'd just like to talk to you about your shareholders. Most of the time when you see these hostile takeovers, the shield behind which those who seek to perpetrate them hide, is the axiom that it's for the good of the shareholders.

Now let me ask you about your shareholders. Have they been paid a dividend over the years by the Koppers Co.?

Mr. PULLIN. Yes, Senator, they have.

Senator SASSER. Do you happen to recall how much by way of dividends they have been paid in recent years?

Mr. PULLIN. The current dividend on the common shares of Koppers stock is $1.20.

Senator SASSER. Now has your stock price over the years steadily increased?

Mr. PULLIN. Our stock price has steadily increased since a restructuring of the company which we began in late 1985 to adjust the products of Koppers to the market conditions of the 1980's.

Senator SASSER. So you really didn't need a corporate raider to come forward and give value to your shareholders, did you? You were doing that yourself, the Koppers Co. was.

Mr. PULLIN. We felt we were sincerely adding value to the shareholders' investment.

Senator SASSER. Now let me ask you this question about your shareholders. Don't you think many of your shareholders are small investors, employees of Koppers, residents of the community, people that might be interested in holding stock for the long term? Maybe they're interested in the dividends for retirement. Do you have stockholders like that?

Mr. PULLIN. That is very true.

Senator SASSER. So there's another category of stockholders. These are what I call stockholders who are after instantaneous gratification. That's what a takeover provides. These are the people that are playing the markets every day and deal in great quantities of stock. They are the arbs, they're institutions, they're corporate raiders. I'd like to insert in the record here now a letter that I received from North American Security Administrators Association from Mr. James C. Meyer of my State, who wrote me concerning the issue of shareholders and corporate takeovers. Do you think it should be these small investors or long-term shareholders that corporations focus on or should it be to those who rush in, seek to take over the company, and then sell off the assets to pay off the debt that they've incurred? What's your answer to that, Mr. Pullin? Where is the long-term obligation?

Mr. PULLIN. Well, I believe very sincerely that the corporate obligation is to those hundreds—well, it's to all shareholders, but it is significantly to those hundreds of smaller shareholders who in many cases, especially with the Koppers Co., are also employees of the company. They are also folks that took Koppers shares over the years in exchange for businesses, many of those businesses in the construction materials and services area, and have held the stock. I've received a significant number of letters from such shareholders encouraging me to continue to wage the fight for independence.

Senator SASSER. Mr. Freeman, Shearson Lehman has a bank and we've heard here today that it ranks among the 20th largest banks in the country and your bank in essence is taking an equity position or will take an equity position in this deal. Why is it fair for Shearson Lehman to take a bank that has access to the Federal Deposit Insurance Corporation and to take this equity position when other banks cannot?

Mr. **Freeman**. I'm sorry I have to disagree with you, Senator, but Shearson Lehman Hutton is taking the financing position and not its wholly owned subsidiary. The Boston Co., which is the parent of Boston Safe Deposit and Trust Co. which is a bank insured by the FDIC and operating with its headquarters in Boston, MA. There is no involvement in this transaction by Boston Safe nor could there be under applicable banking laws.

Senator **Sasser**. Excuse me, a bank holding company, couldn't the owner of a bank take the same position that you're taking, that Shearson Lehman is taking, could it? Is that the law?

Mr. **Freeman**. A commercial bank cannot get in the business under present laws of making equity investments. The only time they get equity investments is the old-fashioned way when the person they have loaned money to goes bust and they end up with equity.

Senator **Sasser**. Right.

Mr. **Freeman**. The Boston Co. and Boston Safe have nothing to do with this transaction. The only financial involvement in any part of the American Express family of companies is through Shearson Lehman Hutton.

Senator **Sasser**. My time has expired. Senator Heinz.

Senator **Heinz**. Mr. Chairman, thank you.

Just to follow up on your question, I'm not quite clear in your answer, Mr. Freeman. You referred in your answer to a bank, not to a bank holding company.

Mr. **Freeman**. Yes.

Senator **Heinz**. Senator Sasser's question was whether a bank holding company as opposed to Shearson Lehman Hutton, Inc., or Shearson Lehman Brothers Holding, Inc., could do what you were doing.

Mr. **Freeman**. My impression, Senator, is that generally bank holding companies cannot take equity positions, although that would be changed, of course, by the legislation that cleared the Senate floor the other day.

Senator **Heinz**. It would be changed by the legislation if and only if prior to April 1991 the Congress by an affirmative vote decided to permit the securities affiliates of bank holding companies to engage in the underwriting of equity securities.

Mr. **Freeman**. Senator, I'm not sure I agree because the legislation, as I understand it, would allow bank holding companies to have securities affiliates that are broker-dealers and if you're a securities company, whether related to a bank or not under that legislation, you don't have to do underwriting to be of assistance in providing financing. You can provide your own financing. In this case Shearson Lehman is providing part of the financing itself.

Senator **Heinz**. Your position is that the bill, once we enact it, will permit banks, irrespective of—suppose we vote no prior to April 1991, your position is that the legislation will permit either bank holding companies or banks or securities affiliates of bank holding companies as structured under this legislation to engage in securities underwriting activities?

If so, that's contrary to everything that anybody on this committee either understands or has said about it. Rather than take the time of the committee, I would like you to support that point of view in detail, please, in writing and ask your counsel to do so because that's——

Mr. **Freeman**. I would be pleased to submit it in writing, but I did not say securities underwriting, Senator. I said provide direct financing, which is quite different.

Senator **Heinz**. Well, please define for us what you mean by that, if you would.

Let me stipulate, because there's a tendency at a hearing like this for many points of view, all interesting, all valuable, to be reflected—indicate that at least from this Senator's point of view, one central issue is whether the activities of Shearson-American Express have in fact uncovered a gigantic loophole that allows a new threshold of speculative financing because that financing trades on the value of the underlying bank, thereby giving rise to two significant questions.

One is whether we are permitting holding companies—this kind of holding company—to overextend themselves the way savings and loans did in Texas. Alternatively, or maybe in addition, whether we are creating financial pressures upon the consummation of a takeover financed with this new level of financing that puts incredibly intense pressures upon the consummation of the deal to maximize short-term cash acquisition without consideration or with, if you prefer, diminished consideration for any of the long-term consequences.

That's what I think we're really talking about here. But to get back to where I was with Mr. Beazer, we have been discussing the financing of this acquisition and we have been talking about the bridge financing and the purchase of preferred stock. I want to ask you this.

EXCHANGE PREFERRED STOCKS FOR PROMISSORY NOTES

Is my understanding correct that if Shearson provides the bridge financing by purchasing preferred stock that under the terms of your agreement Shearson also has the right to exchange the preferred stock for promissory notes after the merger? Is that correct?

Mr. **Beazer**. I'm not quite certain, Senator, what you mean by promissory notes. As I've said on a number of occasions, it's set out in the documentation effectively as I understand the situation, although I am not a Wall Street financier.

Senator **Heinz**. Well, you would know I think if the high yield financing fell through what your financier's rights would be. Now my question is, is it not correct that Shearson has the clear right under the terms of your agreement with them to refinance their preferred stock as a promissory note after the merger? That's a question of fact and I'm simply asking for confirmation. I think it's fairly clear that is the case, but I'd like to know if you know whether that's the case.

Mr. **Beazer**. I would prefer not to comment on the further financing but to refer that matter to my counsel and we'll give you a written opinion on that issue if that is in order with you, Senator.

Senator **Heinz**. Yes. Could you give us that written opinion by 5 o'clock today, please?

Mr. **Beazer**. We will indeed, sir.

[The following information was subsequently submitted for the record:]

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April 11, 1988

The Honorable John Heinz
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Washington, DC 20510-3801

BY HAND

Dear Senator Heinz:

We represent BNS, Inc., and accompanied Brian Beazer to the hearing this morning.

As promised, attached are copies of the initial Offer to Purchase, dated March 3, 1988, the First Supplement, dated March 21, 1988, and the Second Supplement, dated March 25, 1988. Each of these documents discusses in great detail the financing for the Beazer-Koppers transaction.

Senator, we believe you indicated during the hearing that your question to Mr. Beazer on the potential exchange of Shearson's preferred stock investment into debt had been satisfactorily answered. To be complete, however, we thought we would draw your attention to the following quotations from the Offer to Purchase.

> If SLBHI and the Purchaser enter into the SLBHI Stock Purchase Agreement and the Purchaser and the Company subsequently execute a merger agreement prior to funding thereunder, either the Purchaser or SLBHI may cause the other to execute and deliver the SLBHI Loan Agreement which will then supercede the SLBHI Stock Purchase Agreement. (Top of Page 23)
>
> In addition, SLBHI (and possibly the Purchaser) shall, at the time of issue, be granted the right to exchange the Series B Preferred Stock for Notes, in the event that the Merger takes place. (Last sentence of first full paragraph, Page 25.)

We will be back in touch with your staff as soon as possible regarding our views on your other requests for information.

Sincerely,

Smith W. Davis

Smith W. Davis

STATEMENT BY STEVEN B. WOLITZER

MANAGING DIRECTOR

SHEARSON LEHMAN HUTTON INC.

My purpose here today is to try to correct some of the misimpressions that have been created with respect to Shearson's involvement in the Koppers transaction. In a moment, I will address myself to Shearson's role in this transaction, but first, I want to dispel any notion that Shearson is insensitive to the concerns of the people of Pittsburgh and of the State of Pennsylvania.

As a major employer and responsible corporate citizen in Pennsylvania and Pittsburgh, Shearson has an abiding and long standing concern for the economic welfare of the city and state.

Shearson employs more than 800 people in 32 offices throughout the state, of whom 150 are employed in the firm's two Pittsburgh branches. Today's total is double that of five years ago and four times the 1978 figure. Many of these employees joined the firm as a result of mergers with weaker firms. Some of these firms would have closed their doors and laid off employees had Shearson not continued to build its Pittsburgh business.

Shearson's charitable, civic and educational contributions in the state exceeded $700,000 in 1987. These contributions are an expression of the firm's commitment to the communities where our employees live, and we will continue the firm's contribution program regardless of any actions taken against Shearson.

Now, I want to turn my attention to the question of Shearson's participation in this transaction. To begin with, Shearson is acting as Beazer's financial advisor along with County NatWest Limited. Shearson's role in that connection is similar to that played by many other investment bankers in countless other transactions. Indeed, as financial advisor, Shearson's role is similar to that of The First Boston Company and Dillon Read, financial advisors to Koppers and to Koppers' outside directors. As financial advisor, Shearson provides a variety of services to BNS which are standard in deals of this sort including assisting in structuring the financing for the tender offer and the subsequent merger which is contemplated. Certainly nothing in its role as financial advisor distinguishes Shearson's participation in this deal in any way from the manner in which other investment banks participate in numerous acquisition transactions.

Shearson is also providing a portion of the financing for Beazer's tender offer, in conjunction with Beazer, County NatWest, Citibank and a syndicate of other commercial banks. As with Shearson's financial advisory role, its financing role in this transaction is typical for investment banks in deals of this kind. Two types of financing will be required -- "bridge" financing for the tender offer and long-term financing after a merger is accomplished. Shearson will be providing the tender offer financing only, not the long-term post merger financing.

The bulk of the financing for the tender offer will come from Citibank and a syndicate of commercial banks, which have committed to provide over $800 million to BNS Inc. (the entity created to acquire Kopper) in the form of a senior bank loan. Shearson will be providing up to $570 million in tender offer financing. BNS will ultimately be capitalized with $375 million of equity, of which approximately $350 million is being provided by Beazer.

After completion of the tender offer, it is contemplated that a merger will take place between Koppers and BNS (or a subsidiary thereof) and that the financing described above will be restructured. The commercial banks will provide long-term loans and Shearson's tender offer financing will be refinanced. In effect, then, Shearson is simply providing short-term "bridge financing" to facilitate the transaction. This type of financing is typically extended by investment bankers in similar circumstances, and there is nothing unusual in Shearson's financing role in this regard.

Finally, Shearson has made a small investment in BNS Inc., the entity created to acquire Koppers, which will account for less than one and one-half percent of the value of the transaction. Of the original $50 million of common equity, Shearson contributed $23.05 million, while Beazer and NatWest Investment Bank Limited ("NatWest") contributed $24.5 million and $2.45 million, respectively. As a result, Beazer owns 49% of the common stock of BNS, while Shearson and NatWest together own 51% of such common stock. In order to complete the transaction Beazer will be contributing an additional $325,000,000 of equity.

While Shearson, through a subsidiary, holds 46% of the common stock of BNS, a close examination of the facts makes clear that this interest will not permit Shearson to control BNS or even to participate in its management. Rather the management and control of BNS is and will be exercised exclusively by Mr. Beazer's company, Beazer PLC.

Most importantly, Beazer PLC controls almost 80% of the common stock vote. The Beazer shares are entitled to *four* votes for every *one* for Shearson. An while Beazer and Shearson (together with NatWest) each have the ability to elect two directors to the board of BNS, the Beazer directors have *three* votes versus only one for the Shearson/NatWest directors, thereby giving Beazer 6 of 8 votes on the board.

Thus, Beazer's control is absolute and unfettered. Shearson's interest in BNS has no meaningful voting rights and will not enable Shearson to exercise any control over BNS whatsoever.

Even beyond this, the economic reality of Shearson's interest is such that it is clear that Shearson's common equity position in BNS will be short-term, and that interest will not be related to the future profitability of Koppers. Under the pertinent agreements, Beazer has a call option, exercisable after one year, which entitles it to purchase Shearson's common stock in BNS at a 25% rate of return to Shearson on its initial $23,000,000 investment. If the call has not been exercised before 5½ years, then Shearson may elect to "put" its shares to Beazer at the same 25% rate of return, compounded annually, guaranteed by Beazer. Obviously, it makes economic sense for Beazer to exercise the call as soon as possible in order not to pay Shearson what amounts to a guaranteed 25% yield on its investment. Shearson fully expects that Beazer will execise the call option shortly after one year has passed.

In sum, Shearson's roles in this transaction are those of: (1) a traditional financial advisor; (2) a typical bridge financier; and (3) a non-controlling minority equity participant. Although this latter role reflects a slightly different form of tender offer financing, it is not different in substance from other types of financing commonly provided by investment banks to takeover bidders, and it certainly provides no cause for concern.

Offer to Purchase for Cash
All Outstanding Shares of Common Stock
(Including the Associated Preferred Stock Purchase Rights)
and
All Outstanding Shares of Cumulative Preferred Stock 4% Series
of

Koppers Company, Inc.

at
$45.00 Net Per Common Share
and
$107.75 Net Per 4% Series Preferred Share
by

BNS Inc.

the principal stockholder of which is a subsidiary of

Beazer PLC

THE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON WEDNESDAY, MARCH 30, 1988, UNLESS THE OFFER IS EXTENDED.

THE OFFER IS CONDITIONED, AMONG OTHER THINGS, ON (1) A NUMBER OF COMMON SHARES BEING VALIDLY TENDERED AND NOT WITHDRAWN PRIOR TO THE EXPIRATION OF THE OFFER SUCH THAT, UPON THE PURCHASE OF SUCH COMMON SHARES IN THE OFFER, THE PURCHASER, THE PARTNERSHIP DESCRIBED HEREIN AND BRIGHT AGGREGATES INC. WILL BENEFICIALLY OWN IN THE AGGREGATE AT LEAST A MAJORITY OF THE COMMON SHARES OUTSTANDING ON A FULLY DILUTED BASIS, (2) THE NON-MANAGEMENT MEMBERS OF THE BOARD OF DIRECTORS OF THE COMPANY APPROVING THE OFFER FOR PURPOSES OF THE COMPANY'S PREFERRED STOCK PURCHASE RIGHTS OR THE PURCHASER OTHERWISE BEING SATISFIED (AS A RESULT OF COURT ACTION, REDEMPTION OR OTHERWISE) THAT SUCH RIGHTS ARE INVALID OR INAPPLICABLE TO THE OFFER AND THE PROPOSED MERGER DESCRIBED HEREIN, (3) THE PURCHASER BEING SATISFIED THAT THE RESTRICTIONS ON BUSINESS COMBINATIONS CONTAINED IN SECTION 203 OF THE DELAWARE GENERAL CORPORATION LAW ARE INVALID, UNENFORCEABLE OR OTHERWISE INAPPLICABLE TO THE PROPOSED MERGER (AS A RESULT OF BOARD ACTION, THE TENDER OF A SUFFICIENT NUMBER OF SHARES, COURT ACTION OR OTHERWISE), (4) THE PURCHASER BEING SATISFIED THAT THE PROPOSED MERGER CAN BE CONSUMMATED WITHOUT THE NEED FOR A SUPERMAJORITY VOTE OF THE COMPANY'S STOCKHOLDERS PURSUANT TO ARTICLE EIGHTH OF THE COMPANY'S CERTIFICATE OF INCORPORATION (AS A RESULT OF BOARD ACTION, THE TENDER OF A SUFFICIENT NUMBER OF SHARES OR OTHERWISE), (5) FUNDS BEING AVAILABLE UNDER THE FINANCING COMMITMENTS AND OTHER ARRANGEMENTS DESCRIBED IN SECTION 10 SUFFICIENT TO PURCHASE ALL OUTSTANDING SHARES PURSUANT TO THE OFFER AND TO PAY RELATED FEES AND EXPENSES AND (6) THE SHAREHOLDERS OF BEAZER PLC APPROVING BEAZER PLC's INVESTMENT IN THE PURCHASER AND CERTAIN RELATED MATTERS. SEE THE INTRODUCTION AND SECTIONS 1, 10, 12 AND 16.

The Dealer Managers for the Offer are:

Shearson Lehman Hutton Inc.
County NatWest International Limited

IMPORTANT

Any stockholder desiring to accept the Offer should either (1) request his broker, dealer, commercial bank, trust company or other nominee to effect the transaction for him or (2) complete and sign the appropriate Letter of Transmittal (the Blue Letter of Transmittal for Common Shares and the Pink Letter of Transmittal for Preferred Shares) or a facsimile thereof, have his signature thereon guaranteed if required by Instruction 1 of the Letter of Transmittal and forward the Letter of Transmittal or such facsimile with his stock certificate(s) and any other required documents to the Depositary, or follow the procedure for book-entry tender of Shares set forth in Section 3. Any stockholder having Shares registered in the name of a broker, dealer, commercial bank, trust company or other nominee must contact such person if he desires to tender his Shares so registered.

A stockholder who desires to tender Shares and whose certificates for such Shares are not immediately available, or who is unable to deliver all documents required by the Letter of Transmittal to the Depositary prior to the expiration of the Offer or who cannot complete the procedure for book-entry tender of Shares on a timely basis, should tender such Shares by following the procedures for guaranteed delivery set forth in Section 3.

Questions and requests for assistance may be directed to the Information Agent or either of the Dealer Managers at their respective addresses and telephone numbers set forth on the back cover of this Offer to Purchase. Requests for additional copies of the Offer to Purchase and the Letters of Transmittal may be directed to the Information Agent, the Dealer Managers or to brokers, dealers, commercial banks or trust companies.

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To the Holders of Shares of
Common Stock and Cumulative
Preferred Stock 4% Series of
Koppers Company, Inc.:

INTRODUCTION

BNS Inc., a Delaware corporation (the "*Purchaser*"), hereby offers to purchase all of the outstanding shares of (a) Common Stock, $1.25 par value (the "*Common Shares*"), including the associated preferred stock purchase rights (the "*Rights*") issued pursuant to the Rights Agreement, dated as of February 24, 1986, as amended by Amendment No. 1 thereto dated as of January 14, 1988 (as so amended, the "*Rights Agreement*") between Koppers Company, Inc., a Delaware corporation (the "*Company*"), and Morgan Guaranty Trust Company as Rights Agent (the "*Rights Agent*") and (b) Cumulative Preferred Stock 4% Series, $100 par value (the "*Preferred Shares*", and together with the Common Shares, the "*Shares*"), of the Company for cash at $45.00 per Common Share and $107.75 per Preferred Share, net to the seller, on the terms and subject to the conditions in this Offer to Purchase and in the related Letters of Transmittal (which together constitute the "*Offer*"). Unless the context otherwise requires, all references to the Common Shares (including references to the Shares, insofar as related to the Common Shares) shall include the Rights and all references to the Rights shall include all benefits that may inure to the stockholders of the Company or to holders of the Rights pursuant to the Rights Agreement. Tendering stockholders will not be obligated to pay brokerage commissions or, subject to Instruction 6 of the Letters of Transmittal, transfer taxes on the purchase of Shares pursuant to the Offer. The Purchaser or its affiliates will pay all charges and expenses of Shearson Lehman Hutton Inc. ("*Shearson*"), County NatWest International Limited ("*CNWI*" and, together with Shearson, the "*Dealer Managers*"), Citibank, N.A. (the "*Depositary*") and Georgeson & Company Inc. (the "*Information Agent*") in connection with the Offer. See Section 17.

The Offer is conditioned, among other things, on (1) a number of Common Shares being validly tendered and not withdrawn prior to the expiration of the Offer such that, upon the purchase of such Common Shares in the Offer, the Purchaser, the Partnership described below and Bright Aggregates Inc. will beneficially own in the aggregate at least a majority of the Common Shares outstanding on a fully diluted basis (the "*Minimum Tender Condition*"); (2) the non-management members of the Board of Directors of the Company approving the Offer for purposes of the Rights or the Purchaser otherwise being satisfied (as a result of court action, redemption or otherwise) that the Rights are invalid or inapplicable to the Offer and the proposed merger described below (the "*Rights Condition*"); (3) the Purchaser being satisfied that the restrictions on business combinations contained in Section 203 of the Delaware General Corporation Law are invalid, unenforceable or otherwise inapplicable to the proposed merger (as a result of Board action, the tender of a sufficient number of Shares, court action or otherwise) (the "*Section 203 Condition*"); (4) the Purchaser being satisfied that the proposed merger can be consummated without the need for a supermajority vote of the Company's stockholders pursuant to Article EIGHTH of the Company's Certificate of Incorporation (as a result of Board action, the tender of a sufficient number of Shares or otherwise) (the "*Supermajority Condition*"); (5) funds being available under the financing commitments and other arrangements described in Section 10 sufficient to purchase all outstanding Shares pursuant to the Offer and to pay related fees and expenses (the "*Financing Condition*") and (6) the shareholders of Beazer PLC approving Beazer PLC's investment in the Purchaser and certain related matters (the "*Beazer Shareholder Vote Condition*"). See below and Sections 1, 10, 12 and 16.

The stockholders of the Purchaser are (i) Bright Aggregates Inc. ("*Bright*"), a Delaware corporation and a wholly owned indirect subsidiary of Beazer PLC, an English public limited company ("*Beazer PLC*"), (ii) Speedward Limited ("*SW*"), an English company and wholly owned subsidiary of NatWest Investment Bank Limited, an English company ("*NWIB*"), and (iii) SL-Merger, Inc. ("*SLM*"), a Delaware corporation and wholly owned indirect subsidiary of Shearson Lehman Brothers Holdings Inc., a Delaware corporation ("*SLBHI*"). Bright, SW and SLM also have formed BNS Partners, a general partnership (the "*Partnership*"), in which Bright has a 49.0% interest, SLM has a 46.1% interest and SW has a 4.9% interest. Bright, SLM and SW are referred to collectively as the "*Partners*". Beazer PLC, SLBHI and NWIB are referred to collectively as the "*Parents*".

Proposed Merger. The purpose of the Offer is to acquire control of, and the entire equity interest in, the Company. As soon as practicable following consummation of the Offer (assuming the Rights Condition, the Section 203 Condition and the Supermajority Condition are satisfied, and have not been waived), the Purchaser intends to propose and seek to have the Company consummate a merger or similar business combination (the "*Merger*") with the Purchaser or an affiliate of the Purchaser pursuant to which each outstanding Common Share (other than Common Shares held by the Purchaser, the Partnership or Bright, Common Shares held in the treasury of the Company and Common Shares held by stockholders who perfect appraisal rights under Delaware law) would be converted into the right to receive the cash price per Common Share paid pursuant to the Offer. See Section 12. Prior to consummating the Merger, the Purchaser intends to cause the Company to redeem all Preferred Shares not purchased pursuant to the Offer for $107.75 per Preferred Share (plus accrued and unpaid dividends). See Section 12.

The Minimum Tender Condition. The Offer is conditioned upon, among other things, the Minimum Tender Condition.

According to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 1987 (the "*Company 10-Q*"), as of October 31, 1987, there were 28,119,851 Common Shares and at September 30, 1987 there were 150,000 Preferred Shares outstanding. In addition, according to the Company's Annual Report on Form 10-K for the year ended December 31, 1986 (the "*Company 10-K*"), as of December 31, 1986, options or rights to acquire 423,625 Common Shares were then outstanding. Based on such information, and assuming no Common Shares (or equivalents) were subsequently issued or repurchased, the number of Common Shares outstanding on a fully diluted basis (the "*Fully Diluted Common Shares*") would be 28,543,476.

As of March 3, 1988, the Partnership beneficially owned 1,636,000 Common Shares, Bright beneficially owned 458,100 Common Shares and the Purchaser did not own any Common Shares. Based upon the information set forth in the preceding paragraph, such aggregate number of Common Shares represents approximately 7.45% of the total number of Common Shares outstanding and approximately 7.34% of the Fully Diluted Common Shares. Accordingly, the Purchaser believes the Minimum Tender Condition will be satisfied if 12,177,639 Common Shares are validly tendered and not withdrawn prior to the expiration of the Offer.

The Rights Condition. The Offer is conditioned upon, among other things, the Rights Condition.

According to the Company's Registration Statement on Form 8-A filed with the Securities and Exchange Commission (the "*SEC*") on March 6, 1986 (the "*Form 8-A*"), on February 24, 1986 the Company's Board of Directors declared a dividend distribution of one Right for each outstanding Common Share to stockholders of record at the close of business on March 12, 1986. According to the Company's Amendment on Form 8 to the Form 8-A, the Rights Agreement was amended on January 14, 1988. The Purchaser believes that the Rights are not exercisable at this time, certificates evidencing the Rights have not been issued and the Rights are evidenced by the certificates for the Common Shares. At the close of business on the earlier of (i) ten days following the date (the "*Stock Acquisition Date*") of a public announcement that a person or group of affiliated or associated persons (an "*Acquiring Person*") has acquired beneficial ownership of 20% or more of the outstanding Common Shares and (ii) ten business days following the commencement of a tender or exchange offer if, upon consummation thereof, the person or group proposing such offer would be the beneficial owner of 30% or more of the outstanding Common Shares (such earlier date being called the "*Distribution Date*"), the Rights will become exercisable and separate certificates evidencing the Rights (the "*Rights Certificates*") will be distributed as soon as practicable. The commencement of the Offer on March 3, 1988 will result in the Distribution Date being March 17, 1988, unless prior to such date the Company's Board of Directors redeems the Rights or takes action to amend the Rights Agreement to delay the Distribution Date.

Under the terms of the Rights Agreement, when the Rights first become exercisable, each Right will entitle the registered holder to purchase from the Company a unit (a "*Unit*") consisting of one one-hundredth of a newly issued share of Second Series Junior Participating Preference Stock, no par value, of the Company for $75 (the "*Purchase Price*"), subject to adjustment in certain circumstances. The Rights Agreement further provides, among other things, that if (i) the Company is the surviving corporation in a merger or other business combination with an Acquiring Person and the Common Shares are not changed or exchanged or (ii) any person becomes the beneficial owner of more than 30% of the then outstanding Common Shares other than pursuant to a tender or exchange offer for all Common Shares at a price and on terms determined by a majority of the disinterested, non-management members of the Company's Board of Directors, after receiving advice from one or more investment banking firms, to be at a price fair to stockholders (taking into account all factors which such members deem relevant including, without limitation, prices which could reasonably be achieved if the Company or its assets were sold on an orderly basis designed to realize maximum value) and otherwise in the best interest of the Company and its stockholders (an "*Approved Offer*"), provision shall be made so that each Right, other than Rights that have become null and void as described below, will entitle its holder to purchase, for the Purchase Price, Common Shares (or, in certain circumstances, a combination of cash, other property, Common Shares and/or other securities) which will be calculated to have a value of two times the Purchase Price. Following the occurrence of either of the events described in the immediately preceding sentence, any Rights that are, or (under certain circumstances specified in the Rights Agreement) were, beneficially owned by any Acquiring Person shall immediately become null and void. In addition, the Rights Agreement provides that, following a Stock Acquisition Date, if (a) the Company is acquired in a merger or other business combination transaction in which the Company is not the surviving corporation or in which the Common Shares are exchanged or changed (unless such acquisition is (i) made by a person or persons who acquired Common Shares pursuant to an Approved Offer, (ii) at a price per Common Share not less than the price paid in the Approved Offer and (iii) for the same form of consideration as the Approved Offer (an "*Approved Acquisition*")) or (b) 50% or more of its consolidated assets or earning power is sold, provision shall be made so that each Right, other than Rights that have become null and void as described above, will entitle its holder to purchase, at the then current Purchase Price, common stock of the acquiring company which has a value of two times the Purchase Price. Under the terms of the Rights Agreement, at any time until ten days following the Stock Acquisition Date, the Company's Board of Directors may redeem the Rights in whole, but not in part, at a price of $.05 per Right. Thereafter, the Company's right of redemption may be reinstated if an Acquiring Person reduces his beneficial ownership to 10% or less of the outstanding Common Shares in a transaction or series of transactions not involving the Company. For additional information concerning the Rights, see Section 12.

The Purchaser believes that under the circumstances of the Offer and under applicable law, the Board of Directors of the Company is obligated by its fiduciary responsibilities either to cause the Offer to be an Approved Offer or to redeem the Rights so as to permit stockholders to take advantage of the Offer. Accordingly, the Purchaser has requested the Board of Directors of the Company to take all necessary action to redeem the Rights so that stockholders will have the opportunity to receive the Offer price in cash for each of their Shares. The Purchaser has commenced litigation seeking to cause the Rights to be redeemed or to have the Rights declared invalid as applied to the Offer and the Merger. See Section 12. Unless the Rights have been redeemed, stockholders will be required to tender one Right for each Common Share tendered to effect a valid tender of such Share. See Sections 1, 3 and 12.

The Section 203 Condition. The Offer is conditioned upon, among other things, the Section 203 Condition.

Section 203 of the Delaware General Corporation Law (the "*DGCL*") prohibits a Delaware corporation (such as the Company) from engaging in certain "Business Combinations" (as defined in Section 12 hereof and including mergers) with a person holding 15% or more of such corporation's outstanding voting stock (an "*Interested Stockholder*") for a period of three years following the date such person became an Interested Stockholder. This restriction does not apply if (i) before such person became an Interested Stockholder, the Board of Directors of the corporation approved the transaction in which the Interested Stockholder became an Interested Stockholder or approved the Business Combination; (ii) upon consummation of the transaction which resulted in the Interested Stockholder becoming an Interested Stockholder, the Interested Stockholder owned at least 85 percent of the voting stock of the corporation outstanding at the time the transaction commenced (excluding stock held by directors who are also officers and by employee stock plans in which employees do not have the right to determine confidentially whether shares held subject to the plan will be tendered ("*Excluded Shares*")); or (iii) following the transaction in which such person became an Interested Stockholder, the Business Combination is (x) approved by the Board of Directors of the corporation and (y) authorized at a meeting of stockholders by the affirmative vote of the holders of two-thirds of the outstanding voting stock of the corporation not owned by the Interested Stockholder. In addition, Section 203 permits a corporation to "opt-out" of the restrictions if, among other things, its Board of Directors, on or prior to May 2, 1988, adopts an amendment to the corporation's bylaws electing not to be governed by Section 203. The Section 203 Condition therefore would be satisfied if (i) the Company's Board of Directors adopted such an amendment on or prior to May 2, 1988, (ii) the Company's Board of Directors approved the Offer or the Merger prior to consummation of the Offer, (iii) after consummation of the Offer, the Purchaser would own at least 85% of the Common Shares outstanding at the time of commencement of the Offer (other than Excluded Shares) or (iv) Section 203 was found in a final judgment by a court of competent jurisdiction to be invalid as applied to the Offer and the Merger. The Purchaser has commenced litigation in United States District Court in Delaware seeking such a judgment.

The Supermajority Condition. The Offer is conditioned upon, among other things, the Supermajority Condition.

The Company's Certificate of Incorporation (the "*Certificate*") contains provisions which would require that the Merger be approved by the affirmative vote of the holders of 80% of the votes entitled to be cast on matters submitted to stockholders generally by all the outstanding shares of capital stock of the Company (a "*Supermajority Vote*") if, at the time the Merger is submitted to the Company's stockholders for approval, the Purchaser and its affiliates own beneficially more than 10% of the outstanding Common Shares, unless the Merger is approved by a majority of the Continuing Directors (as defined, see Section 12) or the consideration per Share payable in the Merger is not less than a price determined pursuant to a formula set forth in the Certificate. Such formula price may be higher than the price paid pursuant to the Offer and the Purchaser does not intend to cause the Merger to be consummated at a price greater than that paid pursuant to the Offer. Consequently, the Supermajority Condition would be satisfied only if, prior to consummation of the Offer, the Continuing Directors approved the Merger or if, after consummation of the Offer, the Purchaser would beneficially own at least 80% of the outstanding Common Shares. See Section 12.

The Financing Condition. The Offer is conditioned upon, among other things, the Financing Condition.

The Offer is expected to be financed by equity contributions to the Purchaser by Bright, senior bank financing from a bank syndicate lead managed by Citibank, N.A. and a contemplated facility from SLBHI. See Section 10.

The Beazer Shareholder Vote Condition. The Offer is conditioned upon, among other things, the Beazer Shareholder Vote Condition.

The affirmative vote of more than 50% of the ordinary shares of 10 pence each of Beazer PLC (the "*Ordinary Shares*"), voting at the meeting of shareholders scheduled to be held on March 21, 1988 (the "*Beazer PLC Shareholder Meeting*") will be required to satisfy the Beazer Shareholder Vote Condition. The Purchaser has been informed that the directors of Beazer PLC, who beneficially own an aggregate of approximately 1.3% of the outstanding Ordinary Shares, intend to vote their Ordinary Shares in favor of the matters described in the Beazer Shareholder Vote Condition. See Section 13.

See Section 16 for other conditions of the Offer.

1. *Terms of the Offer.* On the terms and subject to the conditions of the Offer, the Purchaser will accept for payment and purchase all Shares validly tendered on or prior to the Expiration Date and not theretofore withdrawn as provided in Section 4. The term "*Expiration Date*" means 12:00 Midnight, New York City time, on March 30, 1988, unless the Purchaser, in its sole discretion, extends the period of time for which the Offer is open (see Section 15), in which event the term "*Expiration Date*" means the latest time and date to which the Offer is so extended.

If the Purchaser decides, in its sole discretion, to increase or decrease the consideration offered in the Offer or to decrease the number of Shares being sought and if, at the time that notice of such change is first published, sent or given to holders of Shares, the Offer is scheduled to expire at any time earlier than the tenth business day from (and including) the date of such notice, then the Offer will be extended until the expiration of such period of ten business days. The SEC has announced in its Release No. 34-24296 that, under its interpretation of applicable rules and regulations, material changes in the terms of an offer (including, in the SEC's view, the waiver of a minimum share condition such as the Minimum Tender Condition) or information concerning such offer may require that such offer be extended so that it remains open for a sufficient period of time to allow security holders to consider such information in deciding whether or not to tender.

The Offer is conditioned upon, among other things, satisfaction of the Minimum Tender Condition, the Rights Condition, the Section 203 Condition, the Supermajority Condition, the Financing Condition and the Beazer Shareholder Vote Condition. The Purchaser reserves the right (but shall not be obligated) to waive any or all of these conditions. If by the Expiration Date, any or all of these conditions have not been satisfied, or if any of the other conditions specified in Section 16 are not satisfied, the Purchaser may elect to (i) extend the Offer and, subject to withdrawal rights, retain all Shares tendered until the expiration of the Offer, as extended, subject to the terms of the Offer, (ii) accept for payment all Shares so tendered and not extend the Offer except if, and to the extent, required by applicable law or (iii) terminate the Offer, not accept for payment any tendered Shares and return all tendered Shares to tendering stockholders. The Purchaser's right to delay acceptance for payment of, or payment for, Shares tendered pursuant to the Offer is subject to provisions of applicable law, including, to the extent applicable, Rule 14e-1(c) under the Securities Exchange Act of 1934, as amended (the "*Exchange Act*").

Unless the Rights are redeemed, stockholders will be required to tender one Right for each Common Share tendered to effect a valid tender of such Common Share. See Sections 3 and 12.

The Company has been requested to provide the Purchaser with the Company's stockholder list and security position listings for the purpose of disseminating the Offer to holders of Shares. This Offer to Purchase and the Letters of Transmittal will be mailed to record holders of Shares and will be furnished to brokers, banks and similar persons whose names, or the names of whose nominees, appear on the stockholder lists or, if applicable, who are listed as participants in a clearing agency's security position listing, for subsequent transmittal to beneficial owners of Shares.

2. *Acceptance for Payment and Payment of Purchase Price.* On the terms and subject to the conditions of the Offer (including, if the Offer is extended or amended, the terms and conditions of any such extension or amendment), the Purchaser will purchase by accepting for payment, and will pay for, Shares validly tendered prior to the Expiration Date and not withdrawn as permitted by Section 4 as soon as practicable after the latest of (i) the Expiration Date, (ii) the expiration or termination of all

waiting periods or extensions thereof under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the "*HSR Act*") applicable to the acquisition of Shares by the Purchaser pursuant to the Offer and (iii) the satisfaction or waiver of the conditions of the Offer. In all cases, payment for Shares (and Rights) purchased pursuant to the Offer will be made only after timely receipt by the Depositary of (i) certificates for such Shares (and a corresponding number of Rights unless the Rights have theretofore been redeemed) or timely confirmation (a "*Book-Entry Confirmation*") of a book-entry transfer of such Shares and Rights (if book-entry transfer of Rights is available) into the Depositary's account at The Depository Trust Company, the Midwest Securities Trust Company or the Philadelphia Depository Trust Company (sometimes hereinafter referred to individually as a "*Book-Entry Transfer Facility*" and collectively as the "*Book-Entry Transfer Facilities*") pursuant to the procedure set forth in Section 3 and (ii) a properly completed and duly executed Letter of Transmittal (or facsimile thereof) and any other documents required by the Letter of Transmittal.

The Purchaser expressly reserves the right, in its sole discretion, to delay the acceptance of or payment for Shares in order to comply, in whole or in part, with applicable law. The Purchaser also has the right, but is not obligated, to extend the period of time the Offer is open. See Section 15.

Each of Beazer PLC and American Express Company (the "ultimate parent entity" of SLBHI) expects to file a Notification and Report Form (a "*Form*") under the HSR Act on March 3, 1988 with respect to the Offer. The waiting period under the HSR Act with respect to the Offer is therefore expected to expire at 11:59 P.M., New York City time, on the fifteenth calendar day following the filing of such Forms unless terminated earlier by the Antitrust Division of the United States Department of Justice (the "*Antitrust Division*") and the Federal Trade Commission (the "*FTC*") pursuant to Beazer PLC's and American Express Company's request. Prior to the expiration of the waiting period, however, the FTC or the Antitrust Division may extend the waiting period by requesting additional information and/or documents from Beazer PLC and/or American Express Company. If such a request or requests is made, the waiting period with respect to the Offer will expire at 11:59 P.M., New York City time, on the tenth calendar day after there is substantial compliance with all such requests. Thereafter, such waiting period may be extended only by court order or by agreement of Beazer PLC and American Express Company. For additional information regarding the HSR Act, see Section 13.

For purposes of the Offer, the Purchaser will be deemed to have accepted for payment and purchased tendered Shares when, as and if it gives oral or written notice to the Depositary of its acceptance of the tender of such Shares. Payment for Shares purchased pursuant to the Offer will be made by deposit of the purchase price therefor with the Depositary, which will act as agent for tendering stockholders for the purpose of receiving payment from the Purchaser and transmitting payment to tendering stockholders. Under no circumstances will interest be paid by the Purchaser on the purchase price of the Shares, regardless of any delay in making such payment.

If any tendered Shares are not accepted for payment pursuant to the terms and conditions of the Offer for any reason, or if certificates are submitted for more Shares than are tendered, certificates for such unpurchased Shares will be returned, without expense, to the tendering stockholder (or, in the case of Shares or Rights tendered by book-entry transfer within a Book-Entry Transfer Facility, such Shares or Rights will be credited to an account maintained within such Book-Entry Transfer Facility) as soon as practicable following the expiration or termination of the Offer.

If, prior to the Expiration Date, the Purchaser increases the consideration to be paid per Common Share or Preferred Share in the Offer, the Purchaser will pay such increased consideration for all Common Shares or Preferred Shares, as the case may be, purchased pursuant to the Offer, whether or not such Shares, respectively, have been tendered prior to such increase in consideration.

If the Purchaser extends the Offer, is delayed in its purchase of Shares or is unable to purchase Shares pursuant to the Offer for any reason, then, without prejudice to the Purchaser's rights under this Offer to Purchase, the Depositary may, nevertheless, on behalf of the Purchaser, retain tendered Shares, and such Shares may not be withdrawn except to the extent tendering stockholders are entitled to withdrawal rights as described in Section 4.

The Purchaser reserves the right to substitute for the Purchaser one or more entities directly or indirectly controlled by Beazer PLC with respect to the right to purchase Shares tendered pursuant to the Offer, but any such substitution will in no way prejudice the rights of tendering stockholders to receive payment for Shares duly tendered and accepted for payment.

3. *Procedure for Accepting the Offer and Tendering Shares.* For a stockholder validly to tender Shares pursuant to the Offer, an appropriate Letter of Transmittal (the Blue Letter of Transmittal for Common Shares and the Pink Letter of Transmittal for Preferred Shares) or facsimile thereof, properly completed and duly executed, with any required signature guarantees and any other documents required by the Letter of Transmittal must be received by the Depositary at one of its addresses set forth on the back cover of this Offer to Purchase and either certificates for tendered Shares must be received by the Depositary at such address or such Shares must be tendered pursuant to the procedures for book-entry tender set forth below (and a Book-Entry Confirmation must be received by the Depositary), in each case prior to the Expiration Date, or such stockholder must comply with the guaranteed delivery procedure set forth below.

The method of delivery of all required documents is at the election and risk of each stockholder. If delivery is by mail, registered mail with return receipt requested, properly insured, is recommended.

According to the Rights Agreement, until the Distribution Date, (a) the Rights will be evidenced by the certificates for Common Shares registered in the names of holders thereof and not by separate certificates and (b) the Rights will be transferable only in connection with the transfer of Common Shares. The Distribution Date is now scheduled to occur on March 17, 1988 unless the Rights are theretofore redeemed by the Company's Board of Directors or the Board takes action to amend the Rights Agreement to delay the Distribution Date. The Rights Agreement provides that as soon as practicable after the Distribution Date, the Rights Agent will mail Rights Certificates representing the Rights to holders of record of Common Shares as of the close of business on the Distribution Date and that the Rights Certificates alone will thereafter evidence the Rights. See Section 12.

Unless the Rights have been redeemed, stockholders will be required to tender one Right for each Common Share tendered in order to effect a valid tender of such Common Share. If Rights Certificates have been distributed to holders of Common Shares prior to the date of tender pursuant to the Offer, Rights Certificates representing a number of Rights equal to the number of Common Shares being tendered must be delivered to the Depositary in order for such Common Shares to be validly tendered. If Rights Certificates have not been distributed and received by a tendering stockholder prior to the time Common Shares are tendered pursuant to the Offer, a tender of Common Shares constitutes an agreement by the tendering stockholder to deliver Rights Certificates representing a number of Rights equal to the number of Common Shares tendered pursuant to the Offer to the Depositary within five days after the date Rights Certificates are distributed and received. The Purchaser reserves the right to require that it receive such Rights Certificates prior to accepting such Common Shares for payment. Unless the Rights are redeemed, in all cases if Rights Certificates have been distributed, payment for Common Shares tendered and purchased pursuant to the Offer will be made only after timely receipt by the Depositary of, among other things, Rights Certificates or, if available, confirmation of book-entry transfer of the Rights into the Depositary's account at a Book-Entry Transfer Facility. If the Rights have been redeemed, the Purchaser will not require delivery of Rights Certificates.

The Depositary will make a request to establish an account with respect to the Shares at each of the Book-Entry Transfer Facilities for purposes of the Offer within two business days after the date of this Offer to Purchase and any financial institution that is a participant in any of the Book-Entry Transfer Facilities' systems may make book-entry delivery of the Shares by causing one of the Book-Entry Transfer Facilities to transfer such Shares into the Depositary's account in accordance with such Book-Entry Transfer Facility's procedure for such transfer. Although delivery of Shares may be effected through book-entry transfer into the Depositary's account at a Book-Entry Transfer Facility, a properly completed and duly executed Letter of Transmittal (or facsimile thereof), with any required signature guarantees and any other required documents, must, in any case, be transmitted to and received by the

Depositary at one of its addresses set forth on the back cover of this Offer to Purchase prior to the Expiration Date, or the guaranteed delivery procedure described below must be complied with. If the Distribution Date occurs, to the extent that the Rights become eligible for book-entry transfer under the procedures established by a particular Book-Entry Transfer Facility, the Depositary will establish accounts with respect to the Rights at such Book-Entry Transfer Facilities as soon as practicable. No assurance can be given, however, that book-entry delivery of Rights will be available. If book-entry delivery is not available, a tendering stockholder will be required to tender Rights by means of delivery of Rights Certificates or pursuant to the guaranteed delivery procedure set forth below.

A registered holder of Shares who (i) has not completed either the box entitled "Special Payment Instructions" or the box entitled "Special Delivery Instructions" in the Letter of Transmittal or (ii) is an Eligible Institution (as defined below), is *not* required to obtain any signature guarantee with respect to its Letter of Transmittal. Signatures on all other Letters of Transmittal, however, must be guaranteed by a firm that is a member of any registered national securities exchange or of the National Association of Securities Dealers, Inc., or by a commercial bank or trust company having an office or correspondent in the United States (each of the foregoing being herein referred to as an "*Eligible Institution*"). See Instruction 1 of the Letter of Transmittal. If certificates for tendered Shares or Rights Certificates, as the case may be, are registered in a name other than that of the signer of the Letter of Transmittal, or if payment is to be made or unpurchased Shares or Rights are to be issued to a person other than the registered owner, then such Share certificates or Rights Certificates, as the case may be, must be endorsed or accompanied by appropriate stock powers, in either case signed exactly as the name or names of the registered owner or owners appear on the certificates with the signature or signatures on the certificates or stock powers guaranteed by an Eligible Institution. See Instruction 5 of the Letters of Transmittal.

If certificates for Shares and Rights Certificates are forwarded separately to the Depositary, a properly completed and duly executed Letter of Transmittal must accompany each such delivery.

If a stockholder desires to tender Shares pursuant to the Offer and such stockholder's certificates for Shares are not immediately available or time will not permit all of the required documents (including the Rights Certificates if Rights Certificates have been distributed) to reach the Depositary prior to the Expiration Date or such stockholder cannot complete the procedure for book-entry tender of Shares on a timely basis, such Shares may nevertheless be tendered, provided that all of the following conditions are satisfied:

(a) such tenders are made by or through an Eligible Institution;

(b) prior to the Expiration Date, the Depositary receives a properly completed and duly executed Notice of Guaranteed Delivery substantially in the form provided by the Purchaser;

(c) the certificates for all tendered Shares in proper form for transfer (or a Book-Entry Confirmation) and a properly completed and duly executed Letter of Transmittal (or a facsimile thereof) and any other documents required by the Letter of Transmittal are received by the Depositary within five New York Stock Exchange, Inc. ("*NYSE*") trading days after the date of such Notice of Guaranteed Delivery; and

(d) with respect to Common Shares and unless the Rights have been redeemed, either Rights Certificates or confirmation of the book-entry transfer of Rights into the Depositary's account at a Book-Entry Transfer Facility, if available, are received by the Depositary within five NYSE trading days after the date of execution of such Notice of Guaranteed Delivery or, if later, five days after Rights Certificates are distributed to stockholders.

The Notice of Guaranteed Delivery may be delivered by hand or transmitted by telegram, telex, facsimile transmission or mail to the Depositary and must include a signature guarantee by an Eligible Institution in the form set forth in such Notice.

Notwithstanding any other provision hereof, payment for Shares tendered pursuant to the Offer will in all cases be made only after receipt by the Depositary of certificates for such Shares and, if Rights Certificates have been distributed and the Rights have not been redeemed, Rights Certificates (or a Book-Entry Confirmation of transfer of such Shares and Rights (if available)), a properly completed and duly executed Letter of Transmittal and any other documents required by the Letter of Transmittal. The Purchaser reserves the right to require that it receive Rights Certificates prior to accepting Common Shares for payment. If the Rights have been redeemed, the Purchaser will not require delivery of Rights Certificates.

To prevent backup Federal income tax withholding on payments made to certain stockholders with respect to the purchase price of Shares purchased pursuant to the Offer, each such stockholder must provide the Depositary with his taxpayer identification number by completing the Substitute Form W-9 included in the Letter of Transmittal. See Instruction 10 of the Letters of Transmittal.

By executing a Letter of Transmittal, a tendering stockholder irrevocably appoints designees of the Purchaser as his proxies, with full power of substitution, to the extent of said stockholder's rights with respect to any Shares and Rights tendered thereby (and any other Shares or other securities issued or issuable in respect of such Shares or Rights on or after February 26, 1988), effective when, if and to the extent the Purchaser accepts for payment such tendered Shares and Rights. Upon such acceptance for payment, such designees will be empowered to exercise all voting and other rights of such stockholder with respect to such tendered Shares and Rights (and any other Shares or other securities so issued in respect of such purchased Shares or Rights) as they in their discretion may deem proper with respect to any annual, special or adjourned meeting of the Company's stockholders, by consent in lieu of any such meeting or otherwise, all prior proxies appointed by such stockholder with respect to such purchased Shares and Rights (and any such other Shares or other securities so issued in respect of such purchased Shares or Rights) will be revoked, and the stockholder will not be entitled to give any subsequent proxies with respect thereto (and if given such proxies will not be deemed effective). In order for Shares to be deemed validly tendered, immediately after the acceptance for payment of such Shares, the Purchaser must be able to exercise full voting rights with respect to such Shares.

All questions as to the form of documents and the validity, eligibility (including time of receipt) and acceptance for payment of tendered Shares will be determined by the Purchaser, in its sole discretion, which determination will be final and binding. The Purchaser reserves the absolute right to reject any and all tenders of any particular Shares not in appropriate form or the acceptance for payment of or payment for which might, in the opinion of the Purchaser's counsel, be unlawful. The Purchaser also reserves the absolute right to waive any of the conditions of the Offer or any defect or irregularity in the tender of any particular Shares. The Purchaser's interpretations of the terms and conditions of the Offer (including the Letters of Transmittal and instructions thereto) will be final and binding. No tender of Shares will be validly made until all defects and irregularities have been cured or expressly waived. None of the Purchaser, the Partnership, the Partners, the Parents, the Dealer Managers, the Depositary, the Information Agent or any other person will be under any duty to give notification of any defects or irregularities in tenders or incur any liability for failure to give any such notification.

The tender of Shares pursuant to any of the procedures described above will constitute a binding agreement between the tendering stockholder and the Purchaser upon the terms and subject to the conditions of the Offer.

4. *Withdrawal Rights.* Except as otherwise provided in this Section 4, all tenders of Shares pursuant to the Offer are irrevocable. Shares tendered pursuant to the Offer may be withdrawn at any time prior to the Expiration Date and, unless theretofore accepted for payment as provided herein, may also be withdrawn at any time after May 1, 1988.

To be effective, a written, telegraphic, telex or facsimile transmission notice of withdrawal must be timely received by the Depositary at one of its addresses set forth on the back cover of this Offer to Purchase. Any such notice of withdrawal must specify the name of the person who deposited the Shares to be withdrawn, the number of Shares to be withdrawn and the names in which the certificates are registered, if different from that of the withdrawing stockholder. If the certificates for Shares to be withdrawn have been delivered to the Depositary, then prior to the physical release of such certificates the withdrawing stockholder must also submit the serial numbers shown on the particular certificates to be withdrawn and the signature on his request for withdrawal must be guaranteed by an Eligible Institution (as defined in Section 3) unless such stockholder is an Eligible Institution. If Shares have been tendered pursuant to the procedures for book-entry tender, as set forth in Section 3, the notice of withdrawal must specify the name and number of an account at a Book-Entry Transfer Facility to be credited with the withdrawn Shares. All questions as to the form and validity (including time of receipt) of any such notice will be determined by the Purchaser, whose determination will be final and binding.

If the Purchaser extends the Offer, is delayed in its purchase of Shares or payment or is unable to purchase Shares pursuant to the Offer for any reason, then, without prejudice to the Purchaser's rights under this Offer to Purchase, the Depositary may, nevertheless, on behalf of the Purchaser, retain tendered Shares, and such Shares may not be withdrawn except to the extent tendering stockholders are entitled to withdrawal rights as described in this Section 4.

None of the Purchaser, the Partnership, the Partners, the Parents, the Dealer Managers, the Depositary, the Information Agent or any other person will be under any duty to give notification of any defects or irregularities in any notice of withdrawal or incur any liability for failing to give any such notification. Any Shares withdrawn will be deemed not to have been validly tendered for purposes of the Offer. Withdrawn Shares may be retendered, however, by again following one of the procedures described in Section 3 at any time prior to the Expiration Date.

A withdrawal of Common Shares shall also constitute a withdrawal of the associated Rights. Rights may not be withdrawn unless the associated Common Shares are also withdrawn.

5. *Certain Tax Consequences.* Sales of Shares and Rights pursuant to the Offer will be taxable transactions for federal income tax purposes and may also be taxable transactions under applicable state and local income and other tax laws. In general, a stockholder will recognize gain or loss for federal income tax purposes equal to the difference between his basis in the Shares and Rights sold in such transaction and the amount of cash received in exchange therefor. Such gain or loss will generally be capital gain or loss if the Shares or Rights, as the case may be, are capital assets in the hands of the stockholder, and will be long-term capital gain or loss if the holding period for the Shares or Rights is more than six months (one year in the case of Shares or Rights acquired after December 31, 1987). In the case of a stockholder who sells Common Shares and the Rights originally distributed with respect to such Common Shares, the stockholder's holding period for such Rights should be the same as for such Common Shares.

For noncorporate taxpayers, the maximum federal income tax rate with respect to all types of income, including capital gain, recognized in taxable years beginning in 1988 is generally 28%, except that certain noncorporate taxpayers may be subject to an additional tax of 5% on a portion of their taxable income, thereby raising their marginal tax rate on that income to 33%. For corporate taxpayers, the maximum federal income tax rate applicable to all types of income, including capital gain, in taxable years beginning on or after July 1, 1987 is 34%. Income recognized by a corporate taxpayer in 1988 in a taxable year beginning before July 1, 1987 may be taxable at a higher rate, but the rate applicable to net capital gain (the excess of net long-term capital gain for the taxable year over net short-term capital loss for such year) will be limited to 34%. Capital losses may be deducted only against capital gains, except that, in the case of noncorporate taxpayers, capital losses in excess of capital gains may be deducted against not more than $3,000 of ordinary income in any taxable year.

The foregoing discussion may not apply to Shares or Rights acquired by a stockholder pursuant to an employee stock plan or otherwise as compensation, to stockholders who are not United States persons or to other categories of stockholders subject to special treatment under federal income tax laws, such as dealers in securities, banks, insurance companies and tax-exempt entities.

New York State imposes a tax (the "*Gains Tax*") upon sales to a single purchaser of stock representing a controlling interest in a corporation owning appreciated interests in real property located within the State. The Gains Tax generally equals 10% of the selling stockholder's share of the appreciation of such interests over their original cost to the corporation. The Purchaser has been unable to determine the extent to which the Company owns appreciated interests in real property located within New York State that may result in imposition of the Gains Tax with respect to sales of Shares pursuant to the Offer. Although such Gains Tax, to the extent it applies, will be an obligation of the tendering stockholders, the Purchaser will pay any such tax. Any such tax paid by the Purchaser in respect of tendered Shares might be viewed for federal income tax purposes as additional consideration paid for those Shares. In that event, however, a stockholder may offset such additional consideration by the amount of Gains Tax paid in respect of his Shares in calculating gain or loss for federal income tax purposes on the sale of Shares.

The tax discussion set forth above is included for general information only. Stockholders are urged to consult their tax advisors to determine the particular tax consequences to them of the Offer, including the application and effect of state and local income and other tax laws.

6. *Price Range of Shares; Dividends.* The Common Shares are traded on the NYSE, the Midwest Stock Exchange (the "*MSE*") and the Pacific Stock Exchange (the "*PSE*") and the Preferred Shares are traded on the NYSE. The following table sets forth, for the periods indicated, (i) the high and low closing sales prices for the Common Shares and the amount of cash dividends declared per Common Share, based on published financial sources and (ii) the high and low closing sales prices for the Preferred Shares, based on published financial sources. Based on published financial sources, at least since the first quarter of 1986, a cash dividend of $1.00 per Preferred Share has been declared each quarter.

	Common Shares			Preferred Shares	
	High	Low	Dividends	High	Low
1986:					
First Quarter	$27⅞	$20½	$.20	$42½	$35⅞
Second Quarter	30¼	25⅛	.20	45	39
Third Quarter	28½	23⅛	.20	45	40¾
Fourth Quarter	30	23⅞	.20	51	43
1987:					
First Quarter	$37⅞	$30⅛	$.20	$54	$48¾
Second Quarter	40⅜	33½	.20	52½	43½
Third Quarter	49⅜	40⅜	.30	47	44½
Fourth Quarter	49⅛	27⅜	.30	46½	40¾
1988:					
First Quarter (through March 2, 1988)	$45⅛	$28⅜	$.30	$44	$41

The Company's Board of Directors has declared dividends of $0.30 per Common Share and $1.00 per Preferred Share, payable March 15, 1988 for Common Shares and April 1, 1988 for Preferred Shares, in each case to holders of record of Shares on February 19, 1988. Holders of record of Shares on such date will be entitled to receive and retain such dividends whether or not they tender their Shares pursuant to the Offer.

On March 2, 1988, the last NYSE trading day prior to the commencement of the Offer, the closing sales price for the Common Shares as reported on the NYSE Composite Tape was $45⅛ per Common Share. On February 29, 1988, the last NYSE trading day prior to commencement of the Offer on which Preferred Shares traded, the closing sales price for the Preferred Shares was $44 per Preferred Share. *Stockholders are urged to obtain current market quotations for the Shares.*

7. *Possible Effects of the Offer on the Market for Shares and Exchange Act Registration.* The purchase of Shares by the Purchaser pursuant to the Offer will reduce the number of Shares that might otherwise trade publicly, and can be expected to reduce the number of holders of Shares, each of which could adversely affect the liquidity and market value of the remaining Shares held by the public.

Depending on the number of Shares purchased pursuant to the Offer, the Shares may no longer meet the listing requirements of the NYSE, MSE and/or PSE, as applicable. Published guidelines of the NYSE indicate that it would consider delisting the Common Shares if, among other things, (i) the number of record holders of 100 or more Common Shares should fall below 1,200, (ii) the number of publicly held Common Shares (exclusive of holdings of officers, directors and members of their immediate families and other concentrated holdings of 10% or more) should fall below 600,000 or (iii) the aggregate market value of the publicly held Common Shares should fall below $5 million. Published guidelines of the MSE indicate that it would consider delisting the Common Shares if, among other things, (i) the number of publicly held Common Shares (excluding holdings of officers, directors and other concentrated holdings) should fall below 100,000, (ii) the number of record holders of Common Shares should fall below 500 or (iii) the volume of trading should decline to a level which would not support a listed market in the judgment of the MSE. Analogous guidelines of the PSE indicate that it would consider delisting the Common Shares if, among other things, (i) the number of publicly held Common Shares (exclusive of holdings of management or other concentrated holdings) should fall below 100,000, (ii) the number of record holders of Common Shares should fall below 500 or the number of record holders of 100 or more Common Shares should fall below 200 or (iii) the aggregate market value of the publicly held Common Shares (exclusive of holdings of management or other concentrated holdings) should fall below $500,000 for a six month period.

According to its published guidelines, the NYSE would consider delisting the Preferred Shares if (i) the number of publicly held Preferred Shares (exclusive of those held by directors, officers, or their immediate families and other concentrated holdings of 10% or more) should fall below 100,000 or (ii) the aggregate market value of publicly held Preferred Shares should fall below $2 million.

According to the Company 10-K, as of March 6, 1987 there were 11,828 holders of record of Common Shares and 955 holders of Preferred Shares. If, as a result of the purchase of Shares pursuant to the Offer, the Shares no longer meet the requirements of the NYSE, MSE and/or PSE, as the case may be, for continued listing and the listing of such Shares is discontinued, the market for such Shares could be adversely affected.

If the NYSE, MSE and/or PSE, as the case may he, were to delist the Common Shares or the Preferred Shares, Shares of such class might continue to trade in the over-the-counter market and price quotations might be available through the National Association of Securities Dealers Automated Quotation System ("*NASDAQ*") or other sources. The extent of the public market for the Shares of a delisted class and the availability of such quotations would, however, depend upon the number of holders of such class of Shares remaining at such time, the interest in maintaining a market in such class of Shares on the part of securities firms, the possible termination of registration of either class of Shares under the Exchange Act and other factors.

Depending upon similar factors, the Common Shares or the Preferred Shares might no longer constitute "margin securities" for the purpose of the margin regulations of the Board of Governors of the Federal Reserve Board of Governors of the Federal Reserve System (the "*Federal Reserve Board*") and, therefore, might be ineligible as collateral for margin loans by brokers.

The Common Shares and the Preferred Shares are registered under the Exchange Act. Such registration may be terminated by the Company with respect to each class of Shares upon application to the SEC if Shares of such class are not listed on a national securities exchange and there are fewer than 300 holders of record of Shares of such class. Termination of registration of both classes of Shares under the Exchange Act would reduce the information required to be furnished by the Company to the SEC and holders of Shares. Termination of the registration of either the Common Shares or the Preferred Shares would render inapplicable the proxy and information statement requirements of Section 14 of the Exchange Act in connection with meetings of holders of Shares of such class, would render Shares of such class ineligible for NYSE, MSE or PSE listing or for NASDAQ reporting or for continued inclusion on the Federal Reserve Board's list of "margin securities" and would cause the "short-swing" trading, reporting and other provisions of the Exchange Act to be inapplicable to Shares of such class. Even if Shares of one class are deregistered, however, the Exchange Act requirement that the Company file periodic reports would remain applicable as long as Shares of the other class remain registered under the Exchange Act. The Purchaser intends to seek to cause the Company to terminate registration of both classes of Shares under the Exchange Act as soon after consummation of the Offer as the requirements for termination of such registration are met.

8. *Certain Information Concerning the Company.* The Company is a Delaware corporation and its principal executive offices are located at Koppers Building, Pittsburgh, Pennsylvania 15219.

According to the Company 10-K:

"[The Company] was incorporated on September 30, 1944. . . . In December, 1985, [the Company] announced plans to divest itself of several manufacturing businesses and certain other operations in order to concentrate upon Construction Materials and Services and Chemical and Allied Products, which were its strongest units.

[The Company's] total invested capital was $626.5 million on December 31, 1986, with approximately 60% attributed to Construction Materials and Services and the balance to Chemical and Allied Products.

Construction Materials and Services. This unit consists of operating subsidiaries, in regional markets, producing crushed stone, sand, gravel and bituminous and ready-mix concrete, and providing engineering and construction services. Related products include steel culvert pipe, welded wire fabric and certain specialty products used in highway, bridge and other civil construction.

Sales of aggregates and construction services are divided between publicly funded projects, such as road maintenance and new construction, and privately financed construction projects. Transportation is a major factor in total product cost. The delivered price doubles when crushed stone is transported 20 to 30 miles. In order to compete effectively, stone aggregate markets must be localized.

Construction Materials and Services operates more than 179 domestic facilities. These serve markets in 14 states extending from New York through Pennsylvania and Ohio and into the Southeast and California. About 39% of sales are in the West, 36% in the Southeast, and 25% in the Northeast.

Through [the Company's] 50% ownership in a joint venture with Redland USA Holdings, Inc., operations also include activities in Colorado, Kansas, New Mexico and Wyoming.

. . .

Chemical and Allied Products. Three operating sectors compose Chemical and Allied Products. Most of its businesses market worldwide products and services associated with either the manufacture and use of products derived from coal tar or the production of chemically treated wood and wood-treating chemicals. Other lines serve specialty markets.

Building Products Sector supplies materials for coal tar bitumen built-up roofing systems, phenolic foam insulation board and a range of high-quality maintenance materials.

This sector licenses proprietary processes and products using specialty chemicals under such trademarks as Dricon and Wolman to wood-treating companies throughout the U.S. and in foreign countries. A retail package line called Wolman Wood Protection Products includes exterior wood stains and water repellants. Brush-on wood preservatives, caulking compounds and adhesives were added in 1986.

Chemical Systems Sector is a major supplier of resorcinol used primarily to produce adhesives for rubber tires and laminated wood: polyester resins for general purpose and high-performance applications, fire-retardant qualities, vinyl ester resins for reinforced-plastics applications requiring corrosion resistance; binder systems and refractory coatings for foundries: industrial sealants, caulks and adhesives: and a group of intermediate chemicals. In late 1986, resin operations were expanded by the acquisition of Atlac specialty resins from ICI Americas Inc.

Tar and Wood Products Sector produces coal tar derivatives, such as pitches used by the aluminum and commercial carton industries as binders in the manufacture of electrodes: creosote, a complex mixture of chemicals, used primarily as a wood preservative, naphthalene, used to produce phthalic anhydride and other chemical intermediates; and phthalic anhydride, used in production of alkyd and polyester resins and plasticizers for plastics.

This sector also sells treated wood products, which include chemically pressure-treated railroad crossties, utility, transmission, distribution and lighting poles and accessory equipment: building poles and timbers; foundation and marine piling; and construction lumber and plywood. Wood pressure treatments for these products are creosote, pentachlorophenol and waterborne preservatives. [The Company] also provides contract wood-treating services for industrial and commercial customers."

Set forth below is certain summary financial information with respect to the Company excerpted or derived from the Company 10-K and the Company 10-Q. More comprehensive financial information is included in such reports and in other documents filed by the Company with the SEC (which may be inspected or obtained in the manner set forth below), and the following summary is qualified in its entirety by reference to such reports and other documents and all of the financial information and notes contained therein or incorporated therein by reference.

KOPPERS COMPANY, INC.

SELECTED FINANCIAL DATA

(Dollars in Millions, Except Per Share Amounts)

	Year Ended December 31,			Nine Months Ended September 30,	
	1986	1985	1984	1987	1986
				(unaudited)	
Operating Results:					
Net sales	$1,396.4	$1,400.2	$1,388.7	$1,095.4	$1,028.6
Income (loss) from operations	$ 63.2	$ (30.0)	$ 24.0	$ 54.2	$ 47.8
Income (loss) per Common Share	$ 2.09(1)	$ (1.23)	$ 0.62	$ 1.87(2)	$ 1.56(2)

	At December 31,		At September 30,
	1986	1985	1987
			(unaudited)
Balance Sheet Data:			
Total assets	$1,016.6	$1,066.1	$1,005.9
Long-term debt	$ 117.7	$ 215.5	$ 108.7
Redeemable convertible preference stock	—	$ 43.9	$ —
Total long-term debt and redeemable convertible preference stock	$ 117.7	$ 259.4	$ 108.7

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(1) Per share figure excludes extraordinary gain of $0.50 in 1986.

(2) Per share figure excludes extraordinary gain of $0.66 in 1986 and 1987.

On January 25, 1988, the Company issued a press release reporting financial results for the fourth quarter and full year ending December 31, 1987. The release included the following table:

	1987	1986
	(Millions)	
FOURTH QUARTER — DECEMBER 31		
Sales	$ 420.4	$ 367.8
Operating Income from Continuing Operations	39.4	27.7
Nonoperating Items	(13.4)	(2.5)
Income from Continuing Operations Before Income Taxes	26.0	25.2
Income Taxes	10.0	9.8
Income from Continuing Operations	16.1	15.4
Discontinued Operations	(59.4)	—
Income (Loss) Before Extraordinary Gain (Loss)	(43.3)	15.4
Extraordinary Gain (Loss)	(19.0)	(4.6)
Net Income (Loss)	(62.3)	10.8
Net Income (Loss) to Common	(62.5)	10.6
Earnings (Loss) Per Common Share:		
From Operations	$ 0.85	$ 0.57
From Nonoperating Items	(0.29)	(0.04)
From Continuing Operations	0.56	0.53
From Discontinued Operations	(2.11)	—
Extraordinary Gain (Loss)	(0.67)	(0.16)
Net Earnings (Loss) to Common	(2.22)	0.37
Average Common Shares Outstanding (thousands)	28,175	28,675

	1987	1986
	(Millions)	
FULL YEAR		
Sales	$ 1,313.7	$ 1,396.4
Operating Income from Continuing Operations	134.5	98.1
Nonoperating Items	(20.7)	4.2
Income (Loss) from Continuing Operations Before Income Taxes	113.8	102.3
Income Taxes	43.6	39.1
Income from Continuing Operations	70.2	63.2
Discontinued Operations	(59.4)	—
Income Before Extraordinary Gain	10.8	63.2
Extraordinary Gain (Net)	—	14.3
Net Income	10.8	77.3
Net Income to Common	10.2	74.1
Earnings (Loss) Per Common Share:		
From Operations	$ 2.87	$ 2.01
From Nonoperating Items	(0.43)	0.08
From Continuing Operations	2.44	2.09
From Discontinued Operations	(2.08)	—
Extraordinary Gain	—	0.50
Net Earnings to Common	0.36	2.39
Average Common Shares Outstanding (thousands)	28,567	28,606

The press release also stated that:

> "… Each year also included nonoperating items: 1987 was penalized by pre-tax net charges of $20.7 million that resulted mainly from plant closings and additional provisions for environmental expenses and for product warranty claims; 1986 income benefited by $4.2 million. As a result, after-tax income from continuing operations was $70.2 million in 1987 and $63.2 million in 1986.
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> "[The Company's] 1987 net income of $10.8 million also included a loss from discontinued operations of $59.4 million. Much of this resulted from final settlement of a court suit . . . over a construction contract dispute relating to a business [the Company] sold in 1984. There were no losses from discontinued operations in 1986."

The Company is subject to the informational filing requirements of the Exchange Act and in accordance therewith files reports, proxy statements and other information with the SEC relating to its business, financial condition and other matters. Information, as of particular dates, concerning the Company's directors and officers, their remuneration, stock options granted to them, the principal holders of the Company's securities and any material interest of such persons in transactions with the Company should be disclosed in proxy statements and annual reports distributed to the Company's stockholders and filed with the SEC. Such reports, proxy statements and other information may be inspected at the SEC's public reference facilities at 450 Fifth Street N.W., Washington, D.C. 20549 and should also be available for inspection at the regional offices of the SEC located in the Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York 10278 and the Everett McKinley Dirksen Building, 219 South Dearborn Street, Chicago, Illinois 60604. Copies may be obtained by mail, upon payment of the SEC's customary fees, from the SEC's principal office at 450 Fifth Street, N.W. Washington, D.C. 20549. Such material should also be available for inspection at the NYSE, 20 Broad Street, New York, New York 10005; the MSE, One Financial Place, 440 South LaSalle Street, Room 518, Chicago, Illinois 60605 and the PSE, 115 Sansome Street, Suite 1104, San Francisco, California 94104.

Except as specifically set forth herein, the information concerning the Company set forth in this Section 8 and elsewhere in this Offer to Purchase has been taken from, or is based upon, publicly available documents on file with the SEC. Although none of the Purchaser, the Partnership, the Partners or the Parents has knowledge that would indicate that any statements contained herein which are based on such documents are untrue, none of the Purchaser, the Partnership, the Partners or the Parents can take responsibility for the accuracy or completeness of the information concerning the Company contained in such documents or for any failure by the Company to disclose events which may have occurred and which may have affected or may affect the significance or accuracy of any such information but that are unknown to any such person.

9. *Certain Information Concerning the Purchaser, the Partnership, the Partners and the Parents.*

General. The Purchaser was incorporated in Delaware in 1988 and to date has engaged in no activities other than those incident to its organization and the making of the Offer.

The stockholders of the Purchaser are Bright (an indirect wholly owned subsidiary of Beazer PLC), SLM (an indirect wholly owned subsidiary of SLBHI) and SW (a wholly owned subsidiary of NWIB). The outstanding stock of the Purchaser is currently held as follows: Bright, 0.490 shares of class A common stock; SLM, 0.461 shares of class B common stock; and SW, 0.024 shares of class B common stock and 0.025 shares of class C nonvoting common stock. Pursuant to the Purchaser's certificate of incorporation and by-laws, (i) holders of class A common shares and class B common shares each have the right to elect two directors, (ii) each class A share is entitled to cast four votes and each class B share is entitled to cast one vote on all matters other than the election or removal of directors and certain amendments to the certificate of incorporation and by-laws, (iii) each class A director is entitled to cast three votes and each class B director is entitled to cast one vote on all matters; (iv) class C shares have no voting rights and (v) the Purchaser's board of directors cannot act without the approval of at least one class A director. The principal executive offices of the Purchaser are located at 2515 McKinney Avenue, Dallas, Texas 75201.

The name, business address, present principal occupation, five-year employment history and citizenship of each of the directors and executive officers of the Purchaser, Bright and Beazer PLC (each of the foregoing entities and the Partnership is referred to as a "*Purchaser Affiliate*", and collectively, the "*Purchaser Affiliates*") are set forth in Annex I to this Offer to Purchase.

Bright and Beazer PLC. Bright is an indirect, wholly owned subsidiary of Beazer PLC, was formed in 1987 and to date has engaged in no activities other than those incident to its organization, the purchase of Common Shares, the Partnership Agreement (as defined below) and the Offer.

Beazer PLC is a general construction company whose business is divided into three principal segments: Homes and Property, Contracting and Building Materials. The Homes and Property Division is involved primarily in the construction and sale of residential housing and in the development and management of commercial property for sale to investors throughout the United Kingdom and, to a limited extent, in certain markets in the United States. Beazer PLC is a major single-family housebuilder in the United Kingdom.

Beazer PLC's Contracting Division conducts its activities through its Kier group, formerly French Kier Holdings PLC, which was acquired in January 1986. Kier acts in the United Kingdom and elsewhere both as a general contractor and a consultant with respect to construction and civil engineering projects (such as bridges, port and airport facilities, roadways, public buildings, electrical generation projects, hotels, shopping malls and other substantial construction projects).

Beazer PLC's Building Materials Division is engaged in the United States in the production of cement, ready-mixed concrete, aggregates and concrete products through Gifford-Hill & Company, Inc. ("*Gifford-Hill*"), formerly a United States public company, whose capital stock was purchased by Beazer PLC in a cash tender offer in October 1986. Gifford-Hill is one of the major producers of cement in the United States.

The principal executive offices of Bright are located at 2515 McKinney Avenue, Dallas, Texas 75201. The principal executive offices of Beazer PLC are located at Beazer House, Lower Bristol Road, Bath BA2 3EY, England.

Beazer PLC's American Depositary Shares trade in the over-the-counter market and price quotations are available through the NASDAQ National Market System. Beazer PLC is also subject to the informational filing requirements of the Exchange Act as applied to foreign private issuers and in accordance therewith files certain reports and other information with the SEC. Such reports and other information should be available for inspection at the SEC in the same manner as set forth with respect to the Company in Section 8.

The historical selected financial data set forth below is derived from previously published financial statements of Beazer PLC and from the Consolidated Financial Statements of Beazer PLC which appear in Beazer PLC's Annual Report on Form 20-F for the fiscal year ended June 30, 1987 as filed with the SEC (the "*Form 20-F*"), and should be read in conjunction with, and are qualified in their entirety by reference to, such Consolidated Financial Statements and the notes thereto. Copies of the Form 20-F can be obtained in the manner described in Section 8.

The financial statements of Beazer PLC have been prepared in accordance with accounting principles generally accepted in the United Kingdom ("*UK GAAP*"), which differ in certain important respects from those generally accepted in the United States ("*US GAAP*"). A description of the principal differences and a reconciliation to US GAAP are set forth in Annex II hereto and in the notes to the financial statements in the Form 20-F.

	Year ended June 30,			
Consolidated Income Statement Data:	1987 (1)	1987	1986	1985
	(in millions, except per share data)			
AMOUNTS IN ACCORDANCE WITH U.K. GAAP				
Net Sales	$1,663.13	£1,033.0	£507.1	£192.3
Trading Profit	138.94	86.3	41.1	18.6
Income before income taxes, minority interests and extraordinary item	116.40	72.3	31.1	15.8
Income before extraordinary items	74.06	46.0	20.3	10.0
Net income	82.75	51.4	21.1	11.0
APPROXIMATE AMOUNTS IN ACCORDANCE WITH U.S. GAAP				
Income from continuing operations before extraordinary items	62.46	38.8	17.0	9.4
Net income	72.77	45.2	18.1	9.9

	At June 30,			
Consolidated Balance Sheet Data:	1987 (1)	1987	1986	1985
AMOUNTS IN ACCORDANCE WITH U.K. GAAP				
Cash and short term investments	$ 58.28	£ 36.2	£ 37.7	£ 24.5
Working capital	374.96	232.9	174.8	134.9
Total assets	1,538.84	955.8	479.6	236.4
Short term debt	82.27	51.1	9.8	8.8
Long term debt (excluding convertible loan stock)	264.04	164.0	88.4	41.3
Convertible loan stock	40.41	25.1	25.1	18.7
Shareholders' equity	595.54	369.9	141.4	95.6
APPROXIMATE AMOUNTS IN ACCORDANCE WITH U.S. GAAP				
Shareholders' equity	704.38	437.5	214.6	103.9

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(1) Convenience translations into dollars of amounts at June 30, 1987 and for the period then ended have been made at the rate of £1.00 = $1.61, the noon buying rate in New York City for wire transfers in Pounds Sterling as certified for customs purposes by the Federal Reserve Bank of New York (the "*Noon Buying Rate*") on that date. On June 30, 1986 and June 30, 1985, the Noon Buying Rate was £1.00 = $1.53 and £1.00 = $1.31, respectively. On March 2, 1988 the Noon Buying Rate was £1.00 = $1.77.

SLM and SLBHI. SLM, a Delaware corporation, is an indirect wholly owned subsidiary of SLBHI. SLM was formed in 1987 and to date has engaged in no activities other than those incident to its organization, the Partnership Agreement and the Offer. The principal office of SLM is located at American Express Tower, World Financial Center, New York, New York 10285.

SLBHI is a majority owned subsidiary of American Express Company. Through Shearson and other subsidiaries, SLBHI is one of the leading full-line securities firms serving the United States and foreign securities and commodities markets. The principal office of SLBHI is located at American Express Tower, World Financial Center, New York, New York 10285.

SW and NWIB. SW is a wholly owned subsidiary of NWIB and to date has engaged in no activities other than those incident to its organization, the Partnership Agreement and the Offer. NWIB is a wholly owned subsidiary and the investment banking arm of National Westminster Bank PLC, a bank organized under the laws of England. The bank and its subsidiaries forming the National

Westminster Group provide an extensive range of banking and financial services, both domestic and international. National Westminster Bank PLC's principal executive offices are located at 41 Lothbury, London EC2P 2BP, England.

Partnership Agreement. The Partnership, a Delaware partnership, was formed on October 16, 1987 pursuant to the General Partnership Agreement (the "*Partnership Agreement*") of BNS Partners by and among Bright, SLM and SW.

According to the Partnership Agreement, profits and losses of the Partnership will be shared by the Partners in accordance with the following allocation: Bright, 49.0%; SLM, 46.1%; and SW, 4.9%.

In accordance with the Partnership Agreement, the Partners have made the following Initial Equity Contributions (as defined in the Partnership Agreement) to the Partnership, all in cash: Bright, $24.5 million; SLM, $23.05 million; and SW, $2.45 million. The total of all such contributions is $50 million.

Bright has been designated as the managing partner under the Partnership Agreement and in such capacity is authorized to manage the affairs of the Partnership, except as specifically limited.

Under the terms of the Partnership Agreement, if the Purchaser purchases Shares pursuant to the Offer the Partnership will be dissolved. In connection therewith it is anticipated that concurrently with the purchase of Shares pursuant to the Offer, all Shares held by the Partnership will be transferred to the Purchaser in exchange for the assumption by the Purchaser of all liabilities and obligations of the Partnership (including amounts owed in connection with the Partnership's margin account) and certain shares of the Purchaser's capital stock, which shares the Partnership will distribute to the Partners such that immediately after such distribution, shares of the Purchaser's stock will be held as follows: Bright, 490 shares of class A common stock; SLM, 461 shares of class B common stock; and SW, 24 shares of class B common stock and 25 shares of class C nonvoting common stock (the "*Distribution*").

The Partnership Agreement provides, subject to certain exceptions, that the consent of 75% in interest of the Partners shall be necessary: (i) to change the purpose of the Partnership so as to allow for the acquisition of shares of a company other than the Company; (ii) to admit any new partner to the Partnership; (iii) to permit the transfer of a Partner's interest in the Partnership; or (iv) to permit the withdrawal of a Partner. The Partnership Agreement also provides that any fees, commissions or other compensation received by a Partner or the affiliate of a Partner from the Company shall be for the benefit of the Partnership and shall promptly be paid over to the Partnership. The Partnership Agreement also provides that the Partnership shall be dissolved and its affairs wound up and its assets distributed to the Partners no later than June 30, 1988.

The Partnership Agreement also contains certain other agreements among the Partners, including provisions regarding withdrawal or expulsion of Partners, replacement of the managing partner, winding up and liquidation in the event of dissolution of the Partnership and agreements regarding indemnification and sharing of expenses incurred in connection with the subject matter of the Partnership Agreement. The Partnership Agreement also provides that Bright, and (pursuant to a guarantee) Beazer PLC, shall be responsible for certain of the Partnership's indemnification obligations under the engagement letters with Shearson and County NatWest Limited (described in Section 17). Upon the purchase of Shares pursuant to the Offer, the Purchaser will assume such obligations and Bright's and Beazer PLC's obligations will terminate.

Stockholders' Agreement. As contemplated by the Partnership Agreement, Bright, SLM and SW, in their capacity as holders of shares of the capital stock of the Purchaser ("*BNS Shares*"), and the Purchaser have entered into a stockholders' agreement (the "*Stockholders' Agreement*"), dated as of March 1, 1988.

The Stockholders' Agreement provides that it will become effective on the purchase of Shares pursuant to the Offer and the occurrence of the Distribution (the "*Effective Date*").

In the Stockholders' Agreement, each of SLM and SW granted to Bright (or its designee) an option (collectively, the "*Call Options*") to purchase all BNS Shares held by it for a price (the "*Option Price*") calculated as described below, exercisable at any time following the first anniversary and prior to the fifth anniversary of the Effective Date, and Bright granted to each of SLM and SW an option (collectively, the "*Put Options*") to sell to Bright (or its designee) all BNS Shares held by it for the Option Price, exercisable at any time during the six months preceding the sixth anniversary of the Effective Date (or a later date if certain notices are not provided on a timely basis).

The Option Price, for both the Put Options and the Call Options, with respect to BNS Shares held respectively by SLM and SW, will be equal to the Initial Equity Contribution of SLM or SW, as the case may be, increased by an amount of capital appreciation on such Initial Equity Contribution calculated at the rate of 25 percent per annum, compounded annually, with respect to each installment comprising such Initial Equity Contribution, from the respective dates such installments were paid to the Partnership to the date of payment of the Option Price, less the amount of any returns of such Initial Equity Contribution or distributions of profit or dividends with respect thereto, increased at the rate of 25 percent per annum, compounded annually, from the date such returns or distributions are received to the date the Option Price is paid. The Option Price will be reduced to 25 percent of the amount calculated pursuant to the foregoing upon the occurrence of any of the following: (i) the material breach or violation by SLM or SW, as the case may be, of any provision of the Stockholders' Agreement or of the certificate of incorporation or by-laws of the Purchaser, (ii) the commencement by SLM or SW, as the case may be, of any action or proceeding challenging the Stockholders' Agreement or the certificate of incorporation or by-laws of the Purchaser (other than actions to enforce the Put Options) or (iii) any transaction which causes SLM or SW, as the case may be, to cease to be, directly or indirectly, wholly owned by SLBHI or NWIB, respectively, or the grant of a security interest in the stock of SLM or SW, as the case may be, or of any entity that has no material assets or activities other than the direct or indirect ownership of such stock.

The Stockholders' Agreement provides that, other than transfers pursuant to the Call Option or Put Option, SLM, SW or any transferee thereof may not transfer any BNS Shares held by them; provided that, subject to compliance with certain conditions, each of SLM and SW may (i) transfer all, but not part, of its holdings of BNS Shares (and the related Put Options) to an entity directly or indirectly controlling, or under common control with, it and (ii) transfer all or part of its holdings of BNS Shares after the sixth anniversary of the Effective Date, subject to a right of first refusal on the part of the Purchaser and Bright.

The Stockholders' Agreement requires that, as to any matter (other than the election or removal of directors) on which holders of class B common stock and/or class C nonvoting common stock of the Purchaser are entitled or required by law to vote as a class, each of SLM and SW shall vote all BNS Shares held by it in the same manner as the majority of the shares of class A common stock of the Purchaser are voted. Bright currently owns, and immediately after consummation of the Offer will own, all issued and outstanding shares of the class A common stock of the Purchaser.

The Stockholders' Agreement also contains a waiver by SLM and SW, until the later of the sixth anniversary of the Effective Date and the expiration of their respective Put Options, of any fiduciary duties on the part of Bright, any holder of the class A common stock of the Purchaser, or any director elected by the holders of the class A common stock of the Purchaser.

Bright's obligations in connection with the Put Options and the Call Options are guaranteed by Beazer PLC and by Beazer Inc., a Delaware corporation wholly owned by Beazer PLC. SLM's obligations under the Stockholders' Agreement are guaranteed by Shearson. SW's obligations under the Stockholders' Agreement are guaranteed by NWIB.

The foregoing are summaries of certain provisions of the agreements described above, copies of which have been filed as exhibits to the Schedule 14D-1 filed with the Commission in connection with the Offer (the "*Schedule 14D-1*"), which may be examined, or copies of which may be obtained, as set forth in Section 8, and such summaries are qualified in their entirety by reference to such agreements.

Ownership of Shares. As of March 3, 1988, the Partnership beneficially owned 1,636,000 Common Shares (or approximately 5.82% of the number of Common Shares believed to be outstanding). Bright beneficially owned 458,100 Common Shares (or approximately 1.63% of the number of Common Shares believed to be outstanding) and the Purchaser did not own any Common Shares.

Except as set forth in Annex III or elsewhere in this Offer to Purchase, none of the Purchaser Affiliates or, to the best of their knowledge, any of the persons listed in Annex I nor any associate or majority owned subsidiary of any Purchaser Affiliate, nor any executive officer, director or subsidiary of any of the foregoing persons, beneficially owns or has a right to acquire, directly or indirectly, any equity securities of the Company or has effected any transactions in the Shares during the past 60 days. Except as set forth in this Offer to Purchase, none of the Purchaser Affiliates or, to the best of their knowledge, any of the persons listed in Annex I, has any contract, arrangement, understanding or relationship with any other person with respect to any securities of the Company, including (but not limited to) the transfer or the voting of any securities of the Company, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or the giving or withholding of proxies.

Since January 1, 1985 and except as set forth in this Offer to Purchase, there have been no transactions such as would require reporting under the rules of the SEC between any Purchaser Affiliate, any of their respective subsidiaries or, to the best of their knowledge, any of the persons listed in Annex I, on the one hand, and the Company or any of its directors, executive officers or affiliates, on the other hand.

10. *Source and Amount of Funds.* The total amount of funds required by the Purchaser to purchase all the Shares not currently owned by the Partnership or Bright, to repay existing margin loans (the "*Margin Loans*") of the Partnership from Shearson and to pay fees and expenses related to the Offer is estimated to be approximately $1,260 million. The necessary funds are expected to be provided as follows: (i) approximately $155 million from the sale of the Purchaser's Cumulative Preferred Stock, Series A ("*Series A Preferred Stock*") to Bright (or a subsidiary thereof); (ii) approximately $465 million from SLBHI as described below; and (iii) approximately $640 million from a bank loan facility from a syndicate of banks (the "*Bank Syndicate*") lead managed by Citibank, N.A. ("*Citibank*").

Equity Financing. As described more fully in Section 9, prior to the date hereof, the Partners contributed an aggregate of $50 million in cash to the Partnership as their Initial Equity Contributions. These funds, together with the Margin Loans in the amount of approximately $21 million, were used to purchase the 1,636,000 Common Shares currently held by the Partnership and pay certain Partnership expenses. Concurrently with consummation of the Offer, the Purchaser will issue common stock to the Partnership as described in Section 9 (which will in turn be distributed to the Partners) and assume all obligations of the Partnership in consideration of the contribution to the Purchaser of such Common Shares. Sources of funds for the respective Partners' Initial Capital Contributions were the general cash resources or general working capital credit facilities of their respective Parents (or affiliates of such Parents). In conjunction with the consummation of the Offer, the Margin Loans will be repaid.

In addition, Bright currently holds 458,100 Common Shares purchased at an aggregate cost of approximately $20 million which was provided from the general cash resources and working capital credit facilities of Beazer PLC and its affiliates. Upon consummation of the Offer, the Purchaser will issue to Bright $175 million of its Series A Preferred Stock in consideration of the contribution to the Purchaser of such Common Shares (valued at the Offer price) and approximately $155 million in cash. The Series A Preferred Stock will be non-voting except to the extent required by law, will be redeemable, in whole or in part, at any time at the option of the Purchaser and will provide for a cumulative dividend of 20% of the issue price per annum; provided that no redemptions will be made, or dividends paid, at any time that such redemption or payment would violate, or cause a default or permit the acceleration of any debt under, any agreement to which the Purchaser is a party.

In order to provide the funds for Bright's purchase of the Series A Preferred Stock (and to satisfy the Letter of Credit Condition, as defined and described under the discussion of bank financing below), Beazer PLC has signed a commitment letter, dated February 19, 1988 (the "*Natwest Commitment*"), with National Westminster Bank PLC ("*Natwest*"). Under the Natwest Commitment, Natwest has committed, subject to various conditions, to lend up to $100 million of a four-year $200 million revolving loan facility (the "*Natwest Loan Facility*"), to use its best efforts to syndicate the balance of the Natwest Loan Facility and to issue a $100 million standby letter of credit (the "*Letter of Credit*") satisfying the Letter of Credit Condition. The Natwest Loan Facility may be used for general corporate purposes, as well as to provide financing for the Offer.

The availability of the Natwest Loan Facility and the issuance of the Letter of Credit will be subject to the execution and delivery of mutually acceptable documentation and to certain other conditions, including but not limited to: (i) the material accuracy of various customary representations and warranties, (ii) the absence of any event that would constitute an event of default under such documentation; and (iii) compliance with certain customary affirmative and negative covenants and financial tests.

Amounts outstanding from time to time under the Natwest Loan Facility are to bear interest at a rate equal to 0.375% per annum over the London Interbank Offered Rate ("*LIBOR*") for periods of one, three, six or (if available) twelve months, as selected by Beazer PLC.

The Natwest Commitment provides for fees on the Natwest Loan Facility of (i) 0.1175% on the portion committed by Natwest and 0.0925% on the balance, payable within 30 days of signature or on the first drawdown; (ii) 0.125% per annum, payable semi-annually in arrears, on the unused portion of such facility; (iii) an annual agency fee of at least £5000 per annum; and (iv) £25,000 in the event the transaction does not go forward. With respect to the Letter of Credit, Natwest is to be paid a fee of 0.10% thereof upon issuance and thereafter a fee of 0.175% per annum, payable in advance, on the full amount thereof.

SLBHI Financing. SLBHI has delivered to the Partnership a letter, dated March 3, 1988 (the "*SLBHI Pre-Commitment Letter*"), pursuant to which the Purchaser may, at any time, request SLBHI in writing to execute and deliver either (i) the form of Senior Subordinated Loan Agreement (the "*SLBHI Loan Agreement*") attached thereto providing for the purchase by SLBHI of an unsecured senior subordinated note or notes of the Purchaser (the "*Notes*") in an aggregate principal amount of up to $465 million or (ii) a form of preferred stock purchase agreement (the "*SLBHI Stock Purchase Agreement*") providing for the purchase by SLBHI of up to $465 million of the Purchaser's Cumulative Preferred Stock, Series B (the "*Series B Preferred Stock*"). The SLBHI Stock Purchase Agreement will contain terms and conditions substantially the same as those set forth in the SLBHI Loan Agreement, appropriately modified to reflect the issuance of preferred stock. Within 24 hours of its actual receipt of such notice, SLBHI shall, in its sole discretion, either deliver an executed copy of the requested agreement or reject the Purchaser's request. In the SLBHI Pre-Commitment Letter, SLBHI has confirmed that it is prepared to respond to the Purchaser's request within such 24-hour period and, based on current economic conditions and SLBHI's analysis, SLBHI is not aware of any reason why it would refuse to enter into the SLBHI Loan Agreement or SLBHI Stock Purchase Agreement, as the case may be, although SLBHI is not committed or otherwise legally obligated to do so. Upon delivery of the SLBHI Pre-Commitment Letter, the Partnership paid to SLBHI $2,325,000, which amount will, in the absence of a condition that would constitute a material breach of representations and warranties in the SLBHI Loan Agreement or SLBHI Stock Purchase Agreement, as the case may be, be returned to the Purchaser if SLBHI refuses to execute the SLBHI Loan Agreement or SLBHI Stock Purchase Agreement, as the case may be, upon the Purchaser's request that it do so. The Purchaser will request

execution and delivery of the SLBHI Loan Agreement only if the Purchaser has entered into a merger agreement with the Company or the Purchaser and the Company would be able to consummate a Short-Form Merger (as defined in Section 12). If SLBHI and the Purchaser enter into the SLBHI Stock Purchase Agreement and the Purchaser and the Company subsequently execute a merger agreement prior to funding thereunder, either the Purchaser or SLBHI may cause the other to execute and deliver the SLBHI Loan Agreement which will then supercede the SLBHI Stock Purchase Agreement.

The SLBHI Loan Agreement provides for the sale of Notes to SLBHI on one or more closing dates which are currently expected to be the closing dates of the Offer and the Merger. SLBHI's obligations under the SLBHI Loan Agreement will be subject to certain conditions as of such closing dates, including but not limited to: (i) the material truth and accuracy of the representations and warranties of the Purchaser contained therein; (ii) the due execution by the Purchaser and the Bank Syndicate of loan documentation (a) in respect of the Tender Offer Facility (as defined and described below) in the case of the closing of the Offer and (b) in respect of the Merger Facility (as defined and described below) in the case of the closing of the Merger, in each case substantially as described in the Bank Commitment (as defined and described below) or as otherwise agreed by SLBHI, and the substantial compliance of the Purchaser or, in the case of the Merger, the surviving entity in the Merger (together with the Purchaser, the "*Borrower*") with the terms and conditions of such loan documentation; (iii) the receipt by the Purchaser of commitments for that part of the Tender Offer Facility for which Citibank has not provided a commitment; (iv) an aggregate amount of borrowings of $100 million under the Tender Offer Facility as of the closing of the Offer; (v) the absence of any event that would constitute an event of default under the Notes; (vi) the consummation of the Offer substantially in accordance with the terms of this Offer; (vii) the capitalization of the Purchaser substantially as described in this Offer and the absence of indebtedness for borrowed money except as described in this Offer to Purchase; (viii) the execution by the Purchaser of a letter agreement (the "*Letter Agreement*") permitting SLBHI to require the Borrower to repurchase all Refunding Securities (as defined below) issued by the Borrower and held by SLBHI or its affiliates (and, in that case, to offer to repurchase all Refunding Securities then held by other parties) at par, if SLBHI and its affiliates hold an aggregate of $60 million principal amount of Refunding Securities not resold in the initial distribution of such securities and certain negative covenants in the Notes are breached or the Borrower fails to satisfy certain interest coverage tests under the Capital Contribution Agreement (as defined and described below); (ix) the execution by Beazer PLC and the Purchaser of a capital contribution agreement (the "*Capital Contribution Agreement*") requiring Beazer PLC, in the event certain debt and interest coverage tests are not satisfied as of December 31, 1988, June 30, 1989 or June 30, 1990, or for periods then ending, to make one or more additional capital contributions to the Purchaser (in the form of common or preferred stock) in such amounts as will cause the Borrower to satisfy such tests, up to an aggregate of $100 million less any amounts previously paid under the Letter of Credit; (x) the absence of a material adverse change in the condition (financial or other), operations or prospects of the Borrower, the Company and their respective subsidiaries and (as to the closing of this Offer only) Beazer PLC and its subsidiaries, in each case taken as a whole; (xi) the payment of all fees owing and payable to SLBHI or Shearson, as applicable; (xiii) the absence of a breach by Beazer PLC, the Partnership, the Purchaser or their respective affiliates of their obligations under the Partnership Agreement, the Stockholders' Agreement or any agreement relating to the financing of this Offer, (xiii) the material truth of, and absence of material omissions in, certain filings with the SEC by the Company, Beazer PLC or the Purchaser, as the case may be; (xiv) the absence of any information which, in SLBHI's reasonable judgment, leads it to conclude that the Company's public disclosures as to environmental matters have been materially misleading, and in this regard, access to the Company's records, books, personnel and properties to the extent that Borrower has such access; and (xv) other conditions customary in financings of this nature, including receipt of legal opinions and certificates, compliance with all applicable laws, evidence of satisfactory corporate proceedings and other matters.

The SLBHI Loan Agreement also provides for customary representations and warranties as to (i) the accuracy of certain public information provided to SLBHI, (ii) the overall financing arrangements for the Offer and the Merger, (iii) the indebtedness and solvency of Beazer PLC and the

Borrower (both before and after the transactions described herein), (iv) the organization, status and ownership of the Borrower and certain affiliates, (v) the authorization of the transactions described in this Offer, (vi) the absence of violations of law or breach of corporate documents or agreements and the obtaining of necessary consents, (vii) the absence of litigation or proceedings that could have a material adverse effect on the condition, operations or prospects of the Borrower, the Company, Beazer PLC or their respective affiliates, in each case taken as a whole, and (viii) certain other matters. In addition, the SLBHI Loan Agreement will contain an obligation to provide SLBHI with certain financial and other information for as long as Notes remaining outstanding.

Under the SLBHI Loan Agreement, the Borrower would agree to make, and SLBHI would undertake to cause Shearson to use its best efforts to underwrite, a public offering (or, if possible, a private placement) of not more than $300 million principal amount of senior subordinated debentures (the "*Refunding Securities*") to be used to refinance an equal principal amount of Notes. The Refunding Securities would have such yield (not to exceed 18% per annum without the consent of Citibank) and such redemption prices as Shearson (after consultation with the Borrower) reasonably considers appropriate at the time of issue in light of the then existing market conditions and financial condition of the Borrower and may, if and to the extent that Shearson reasonably determines that market conditions for such debentures so require, include warrants to purchase equity securities of the Borrower or, at the request of the Borrower, instruments providing the economic equivalent of such warrants. If so requested by the Borrower, such warrants would grant Bright the right to repurchase them prior to exercise, at such times and at such prices as Shearson shall reasonably determine to be consistent with prevailing market conditions. The Borrower would, if necessary, be obligated to register the Refunding Securities under the Securities Act of 1933 and to qualify an indenture with respect thereto under the Trust Indenture Act of 1939 or, if the Refunding Securities were initially sold in a private placement, to give holders thereof registration rights with respect thereto. It is currently contemplated that the Refunding Securities would have a maturity of ten years, have the benefit of a mandatory sinking fund, be callable at the Borrower's option beginning at the end of the fifth year following issuance at declining premiums to par, contain limitations on the incurrence of additional debt and the making of dividend and other payments to affiliates and be subordinated to senior debt (including debt under the Bank Facilities (as defined below) and any refinancings thereof).

The SLBHI Loan Agreement would terminate on June 30, 1988 or earlier in the event of (i) a trading suspension or establishment of minimum prices on the New York or American Stock Exchanges or in the over-the-counter market, (ii) declaration of a general banking moratorium by Federal or State authorities or (iii) the impairment, in SLBHI's reasonable judgment, of trading in debt securities rated less than investment grade by Moody's or Standard and Poor's.

The Notes would provide for interest, payable in arrears, at a rate 5% per annum over the Alternate Base Rate (as defined below) until the date 180 days after the first purchase of Notes and thereafter 7% per annum over the Alternate Base Rate. To the extent permitted by law, an additional 3% per annum would be payable for as long as any amounts of principal or interest are overdue. The "Alternate Base Rate" is a fluctuating rate which is the higher of (i) Citibank's publicly-announced base rate and (ii) one-half of 1% per annum above the latest three-week moving average of secondary market morning offering rates for three-month certificates of deposit of major U.S. banks (as adjusted for certain reserve requirements). The first interest payment would be due on the earlier of the effective date of the Merger or 90 days from the date of the first purchase of Notes; thereafter, interest would be payable quarterly. The Notes would mature 180 days after the first purchase of Notes or, if the Merger occurs, no later than 455 days after the Merger. Principal may be prepaid at any time in whole or in part without penalty at the option of the Borrower, and would be required to be prepaid to the extent of the net proceeds of any sales of Refunding Securities. The Notes would require repayment in full when the aggregate principal amount outstanding does not exceed $165 million. The Notes would be subordinated to all indebtedness under the Bank Facilities and any existing indebtedness of the Company not repaid in connection with the Merger. The Notes would provide for customary affirmative and negative covenants, including limitations on certain payments in respect of the Borrower's capital stock, investments in its affiliates, the incurrence of additional indebtedness and transactions with affiliates, an undertaking to cause the Merger to occur as quickly as possible, a provision regarding access to records and information and various other matters. The Notes would also provide for certain customary events of default.

The Series B Preferred Stock would provide for a cumulative dividend of 15% per annum, payable quarterly, and additional participating dividends to be negotiated at the time of issue. The Series B Preferred Stock would prohibit dividends, redemptions or other distributions in respect of other capital stock until the Series B Preferred Stock is no longer outstanding; it would have no voting rights except (i) with respect to certain amendments of the issuer's certificate of incorporation or the issuance of capital stock having rights to dividends, redemption or other distributions, or on liquidation, that rank equally with, or senior to, the Series B Preferred Stock; (ii) for the duration of any period that the issuer is in arrears in the payment of at least two quarterly dividends, the right to elect one director to the issuer's board of directors, and (iii) as otherwise required by law. The Series B Preferred Stock would have a liquidation preference of $1,000,000 per share, plus accrued and unpaid dividends, in the event of voluntary or involuntary liquidation. The issuer would be required to redeem the Series B Preferred Stock at par 10 years from the date of issue and would have the right to redeem the Series B Preferred Stock, in whole or in part, at any time following the fifth anniversary of the Merger, at par plus accrued but unpaid dividends. In addition, SLBHI (and possibly the Purchaser) shall, at the time of issue, be granted the right to exchange the Series B Preferred Stock for Notes, in the event that the Merger takes place.

In addition to the fee of $2,325,000 paid upon delivery of the SLBHI Pre-Commitment Letter, the SLBHI Loan Agreement provides for the payment of the following fees: (i) a fee of $2,325,000 upon execution of the SLBHI Loan Agreement, (ii) a fee of 1% of the aggregate principal amount of Notes issued, and (iii) to the extent that Notes are repaid other than from the proceeds of Refunding Securities underwritten or placed by SLBHI or its affiliates, a fee of 1.25% of the first $165 million principal amount repaid and 3.5% of any additional principal amount so repaid. In addition, SLBHI is to be reimbursed for its out-of-pocket expenses incurred in connection with the SLBHI Loan Agreement (other than the underwriting of the Refunding Securities as to which it is to receive a fee of 3.5% of the gross proceeds therefrom pursuant to the Engagement Letter with the Partnership which is more fully described in Section 17 below).

Bank Financing. The Partnership has received a commitment letter dated February 19, 1988 (the "*Bank Commitment*") from Citibank providing for the following two facilities (the "*Bank Facilities*") to be made available to the Purchaser: (a) a tender offer facility (the "*Tender Offer Facility*") of up to $640 million to be used to finance a portion of the Offer and to pay related expenses, and (b) a merger facility (the "*Merger Facility*") of up to $1.05 billion, to be used to repay the Tender Offer Facility and to finance the Merger and related transactions, apportioned as follows: (i) $543 million as an 18-month term loan ("*Part A*"), and (ii) up to $507 million as an eight-year term loan ("*Part B*"), a portion of which will be made available on a revolving basis. The amount of Part B will be equal to the sum of (A) $120 million to be funded at the consummation of the Merger; (B) up to $165 million to refinance existing debt of the Company; (C) up to $57 million in additional funds to finance working capital and Merger costs if Citibank (with the agreement of the Borrower) determines that the Borrower needs working capital or additional Merger cost financing; and (D) $165 million (the "*Incremental Amount*") to be made available for the repayment of the remaining outstanding Notes if the Borrower receives not less than $300 million in aggregate gross cash proceeds from the issuance and sale of the Refunding Securities.

Citibank has committed to lend $320 million of each of the Bank Facilities and to use its best efforts to syndicate the balance. The Bank Commitment is subject to the closing of the Tender Offer Facility occurring no later than June 17, 1988, and is generally subject to: (i) the receipt of commitments from other lenders (together with Citibank, the "*Lenders*") for the balance of the Bank Facilities; (ii) the absence (currently and at the closing of each Bank Facility) of a material adverse change in the condition (financial or otherwise), operations, properties or prospects of the Company, the Purchaser or Beazer PLC; and (iii) the execution and delivery of mutually acceptable loan agreements and related documentation.

In addition, the Tender Offer Facility is subject to certain conditions, including but not limited to: (i) the Lenders being satisfied of the Offer's consummation in accordance with the terms, and upon satisfaction of the conditions, set forth in this Offer to Purchase; (ii) the amount of financing available to, and the capitalization of, the Purchaser (including the terms, conditions, holders and use of the proceeds of all equity and subordinated debt of, and the amount of transaction fees payable by, the Purchaser) being substantially as described in this Offer to Purchase and satisfactory to the Lenders; (iii) the absence of any pending or threatened litigation or proceeding which, in the opinion of the Lenders, could have a material adverse effect on the Company, the Purchaser or Beazer PLC, on the Offer or Merger or on the Bank Facilities; (iv) the receipt of all regulatory or other approvals or consents necessary to consummate the Offer and the expiry of any applicable waiting periods; (v) the grant to the Lenders of a perfected first lien security interest in all Shares to be purchased and all Shares currently owned by the Partnership or Bright; (vi) the proposed structure of the Merger being satisfactory to the Lenders; (vii) the absence of any event that would constitute an event of default under the loan agreements; and (viii) the satisfaction of certain other conditions customary in margin financings.

The availability of loans under the Merger Facility is also subject to certain conditions, including but not limited to: (i) the Merger and related transactions being consummated in accordance with a merger agreement satisfactory to the Lenders (with holders of not more than 5% of the Company's Common Shares having perfected their statutory appraisal rights); (ii) the capitalization (including the terms, conditions and holders of all equity, subordinated debt and any other outstanding indebtedness) of the Borrower being substantially as described in this Offer to Purchase and satisfactory to the Lenders; (iii) the grant to the Lenders of a perfected first lien security interest in all assets of the Borrower and its subsidiaries (and in connection therewith the receipt of guarantees of the Merger Facility by such subsidiaries and the completion of title searches and the issuance of title insurance with respect to such real property, as the Lenders may request); (iv) the receipt of letters from the Borrower and from an independent accounting or nationally-recognized appraisal firm attesting to the solvency of the Borrower upon consummation of Merger and of asset appraisals satisfactory to the Lenders; (v) the receipt of certain information and the completion of a due diligence investigation of the Borrower which shall not have revealed, among other things, any material misstatements or omissions of fact as to the Borrower or its assets in written information provided to the Lenders prior to issuance of the Bank Commitment (except to the extent known by the Lenders and waived by them upon funding of the Tender Offer Facility); (vi) the receipt by the Lenders of a satisfactory environmental review report from an acceptable environmental review firm and the Lenders' satisfaction with the Borrower's compliance with environmental law and regulations and with its reserves for environmental liabilities; (vii) the absence of any event that would constitute an event of default under the loan agreements; (viii) the absence of any pending or threatened litigation or proceeding which, in the opinion of the Lenders, could have a material adverse effect on the Company or the Borrower, on the Offer or the Merger or on the Bank Facilities; (ix) the receipt of all regulatory or other approvals or consents necessary to consummate the Merger and the expiry of any applicable waiting periods; (x) the satisfaction of the Lenders as to certain matters relating to the Company's employee benefit plans; (xi) the receipt by the Lenders of a standby letter of credit from an acceptable bank or banks permitting the Borrower or Citibank to draw from time to time, until the end of the eighteenth month after the closing of the Merger Facility, an amount equal to any overdue amount of principal or interest under the Merger Facility, up to a maximum aggregate amount of $100 million less (a) the amount of any previous drawings by the Borrower or Citibank under such letter of credit, and (b) the aggregate amount of any additional capital contributions made to the Borrower pursuant to the Capital Contribution Agreement (this condition being known as the "*Letter of Credit Condition*"); and (xii) the satisfaction of certain other conditions customary in secured acquisition financings. The Bank Commitment requires that any amounts paid by Beazer PLC pursuant to the Capital Contribution Agreement be assigned and paid directly to the Lenders.

The Bank Commitment further provides that the loan agreements for the Bank Facilities will contain customary representations and warranties and customary negative, affirmative and financial covenants for margin financings (in the case of the Tender Offer Facility) and secured acquisition financings (in the case of the Merger Facility), including but not limited to covenants as to certain financial tests and ratios, incurrence, payment or modification of other debt, disposition of assets, creation of liens or security interests, payment of dividends, redemption of equity or other distributions to shareholders, transactions with affiliates, access to information and other matters. In addition, such loan agreements will provide for customary events of default.

The Bank Commitment provides that the Tender Offer Facility will mature on the earlier of (i) consummation of the Merger and (ii) 180 days from the date of borrowing thereunder. Part A of the Merger Facility will mature within 18 months of borrowing thereunder ($375 million within 12 months and the remaining $168 million within 18 months), and Part B of the Merger Facility will finally mature eight years from the date of borrowing. The Merger Facility will provide that, until Part A is repaid in full, the Borrower will have an obligation to sell certain assets ("Designated Assets") for cash at fair market value and to use the proceeds to repay Part A. Designated Assets will include the Company's Chemicals and Allied Products business (which is to be sold for net cash proceeds of not less than $400 million before payment of associated taxes, unless the fair market value is determined to be lower) and certain other assets to be specified. In addition, the Borrower will be required to make prepayments of Part B based on a percentage of "consolidated excess cash" (which will be defined), and to apply the proceeds of any sale of assets other than Designated Assets (except to the extent of certain permitted reinvestments in capital assets) and amounts received on account of overfunded pension plans to the prepayment of Part B.

Borrowings under the Tender Offer Facility will bear interest, payable in arrears, at a rate 1% per annum over the Alternate Base Rate. With respect to borrowings under the Merger Facility, the Borrower will be able to elect a rate equal to (i) 1½% per annum over the Alternate Base Rate, (ii) 2½% per annum over LIBOR for one-, two-, three- or six-month interest periods, as the case may be, or (iii) 2⅝% per annum over the certificate of deposit rate (as adjusted) for 30-, 60-, 90- or 180-day interest periods, as the case may be. During the continuance of an event of default, the applicable interest rate on outstanding borrowings (including accrued interest) under the Bank Facilities will be increased by 2% per annum.

The Bank Commitment provides for payment of the following fees to Citibank: (i) $3 million upon acceptance of the Bank Commitment (which amount has been paid); (ii) $2 million upon the commencement of the Offer; (iii) $10 million upon the closing of the Tender Offer Facility; (iv) an amount, payable at the closing of the Merger Facility, equal to 2.5% of the aggregate amount thereof, less (a) the amounts paid pursuant to (i) through (iii) above and (b) the amount payable pursuant to (v) below; (v) an amount equal to 1% of the Incremental Amount, payable upon the earlier of (x) the funding thereof, (y) the end of the 14th month after the closing of the Merger Facility and (z) the repayment in full of the Merger Facility; and (vi) an annual agency fee, payable in arrears, of $750,000 for the first year and $500,000 for each subsequent year, following closing of the Tender Offer Facility. In addition, each Lender is to receive a fee of one-half of 1% per annum on the unused portion of its commitment for a share of the total $1.05 billion Bank Facility, commencing upon the acceptance of such Lender's commitment. Finally, the Partnership has agreed to pay Citibank (i) $1 million upon the acquisition of control of the Company by any person other than the Purchaser or its affiliates within 12 months of the commencement of the Offer; and (ii) up to $5 million of syndication and related fees paid by Citibank to other prospective Lenders if the Purchaser or its affiliates acquires control of the Company within 12 months of the commencement of the Offer and the Tender Offer Facility does not close prior to or upon such acquisition of control. The Partnership has agreed to indemnify Citibank and certain related persons against certain damages and expenses (including attorneys' fees) arising out of any investigation or litigation relating to the Offer, the Merger or related transactions, and to reimburse Citibank for its out-of-pocket expenses relating to the transactions described in this Offer.

It is anticipated that borrowings by Beazer PLC under the Natwest Loan Facility will be repaid from funds generated internally by Beazer PLC. It is anticipated that borrowings by the Purchaser under the Bank Facilities will be repaid from funds generated internally by the Purchaser (including, after the Merger, funds generated by the Company), the sale of the Company's Chemical and Allied Products business and other, as yet unidentified, assets or other sources, which may include the proceeds of the sale of debt or equity securities. It is anticipated that the Notes will be refinanced, in part by the sale of Refunding Securities and the remainder from a portion of the Merger Facility.

11. *Background of the Offer; Contacts with the Company.* On the morning of March 3, 1988, the Chairman and Chief Executive of Beazer PLC attempted to telephone Charles R. Pullin, the Chairman of the Board and Chief Executive Officer of the Company, to advise him of the Offer and of the Purchaser's desire to negotiate a mutually beneficial transaction. This message was reiterated in a letter, the text of which is set forth below, that was delivered to the offices of the Company on March 3, 1988.

> "Dear Mr. Pullin:
>
> BNS Inc., a corporation the largest stockholder of which is a subsidiary of Beazer PLC, is today commencing a tender offer for all outstanding shares of Koppers common stock (together with the associated preferred stock purchase rights) and preferred stock for $45.00 in cash per common share and $107.75 in cash per preferred share.
>
> Our tender offer describes in detail our financing plans, and when you review that information, I am sure you will understand why I am confident that all necessary funds will be available.
>
> We firmly believe the transaction we propose offers excellent opportunity for people connected with Koppers. Your shareholders will receive fair value for their investment. Additionally, Koppers will become part of a worldwide organization with the extensive resources, depth of expertise and financial strength necessary to create a challenging work environment with excellent opportunities for career growth. As part of Beazer, Koppers will be a significant, contributing corporate citizen in the many communities it serves. Indeed, we plan to operate Koppers as an independent autonomous business and we have no plans to move the headquarters from Pittsburgh.
>
> We intend that the offer will be followed by a merger in which any remaining common stockholders would also receive $45.00 per share in cash. Our price was determined upon public information and despite the fact that it appears that market speculators have driven up the price of Koppers in recent days, we believe our offer provides full and fair value for all of your stockholders. However, should non-public information become available to your investment bankers or third parties for purposes of evaluating alternatives to our offer, we ask that such information be made available to us as well on a timely basis.
>
> It is our strong preference to enter into a negotiated transaction with Koppers. I and my advisors are prepared to meet with you as soon as possible to answer any questions about our offer and to enter into a merger agreement.
>
> For your additional information, I am enclosing our financial statements. You will see that Beazer is operationally and financially strong. The company earned $82.8 million on sales of $1.7 billion in its latest fiscal year ended June 30, 1987, and total assets were $1.5 billion. Additionally, the offer is being made by a corporation whose financial partners include affiliates of Shearson Lehman Brothers Holdings Inc. and NatWest Investment Bank Limited.
>
> Finally, let me point out that Beazer already has extensive, highly successful U.S. operations, including Gifford-Hill, which has experienced improved profitability and continued to be an important contributor to its communities since becoming part of Beazer in 1986. We foresee excellent growth opportunities in the U.S. market and we believe that, as part of our organization Koppers would be ideally positioned to capitalize on those opportunities and, even, to pursue opportunity overseas.
>
> It is clear that your Board of Directors has a fiduciary duty to allow your stockholders to realize the full value of their investment unimpeded by antitakeover devices. Accordingly, we believe the Board has an obligation to approve our offer for purposes of (i) the supermajority provision contained in Article EIGHTH of your certificate of incorporation and (ii) Section 203 of the Delaware General Corporation Law. We also request that the Board redeem the Company's poison pill rights. We hope the Board will act promptly to do so.
>
> We look forward to hearing from you.
>
> Very truly yours,
>
> Brian C. Beazer
> Chairman and Chief Executive

In early 1985, representatives of the Company had preliminary discussions with representatives of Gifford-Hill (which at the time was publicly owned) with respect to the possible acquisition of Gifford-Hill by the Company. Gifford-Hill was subsequently acquired by Beazer PLC in October of 1986. In early 1987, preliminary inquiries were made by representatives of Gifford-Hill to representatives of the Company with respect to the Company's willingness to sell some or all of its aggregates business in Southern California and the Carolinas. The Company indicated it was not willing to make any such sale at that time.

Except as described in this Offer to Purchase, there have been no contacts, negotiations or transactions since January 1, 1985 between any of the Purchaser Affiliates, any of their respective subsidiaries or, to the best of any Purchaser Affiliate's knowledge, any of the persons listed in Annex I, on the one hand, and the Company or any of its affiliates, on the other hand, concerning a merger, consolidation or acquisition, a tender offer or other acquisition of securities, an election of directors, or a sale or other transfer of a material amount of assets.

12. *Purpose of the Offer; the Merger.* The purpose of the Offer is to acquire control of, and the entire equity interest in, the Company. The Purchaser presently intends, as soon as practicable following completion of the Offer, to seek maximum representation on the Company's Board of Directors and to propose the Merger, pursuant to which each outstanding Common Share (other than Shares held by the Purchaser, the Partnership or Bright, Shares held in the treasury of the Company and Shares held by stockholders who properly perfect appraisal rights under Delaware law) would be converted into the right to receive an amount in cash equal to the price per Share paid pursuant to the Offer. Prior to consummating the Merger, the Purchaser intends to cause the Company to redeem all Preferred Shares not purchased pursuant to the Offer for $107.75 per Preferred Share (plus accrued and unpaid dividends) or, in the case of a Short-Form Merger (as defined below), to cause each Preferred Share (other than those held by the Purchaser or its affiliates or by holders who properly perfect appraisal rights) to be converted in the Short-Form Merger into the right to receive such amount.

General. In general, under Delaware law the approval of both the stockholders and the board of directors of a corporation is required to effect the merger of that corporation with or into another corporation. Delaware law provides, however, that if a parent corporation owns at least 90% of each class of the outstanding shares of capital stock of a subsidiary corporation, the parent corporation may merge with or into the subsidiary corporation without any action or vote on the part of the board of directors or the other stockholders of the subsidiary corporation. A merger effected under this law is referred to herein as a "*Short-Form Merger.*" Accordingly, if at any time following the completion of the Offer, the Purchaser owns at least 90% of the then outstanding Common Shares and 90% of the then outstanding Preferred Shares (if any), the Purchaser believes that it would have the power (subject to the potential application of Section 203 of the DGCL described below) to effectuate the Merger without any action or vote on the part of any other stockholder of the Company or its Board of Directors.

Unless the Merger is consummated pursuant to a Short-Form Merger, the approval of the Company's Board of Directors will be required under Delaware law to effect the Merger. If the Board of Directors of the Company in office at the consummation of the Offer were to refuse to approve the Merger (or any transaction or corporate action proposed by the Purchaser that required the approval of the Board of Directors), the Purchaser, in order to consummate such transaction or cause the Company to take such action, would have to replace at least a majority of the Board of Directors with its own designees. Certain provisions of the Certificate could prevent the Purchaser from replacing or electing a majority of the Board of Directors for up to two years. Pursuant to Article EIGHTH, Section 2.A of the Certificate, the Board of Directors is divided into three classes with each class elected for a term of three years and one class elected at the Company's annual meeting of stockholders each year. The number of directors at any time can be established only by a resolution of the Board of Directors. As a result of these provisions in the Certificate, at least two annual meetings of the Company's stockholders, absent resignations or cause for removal, would be required to elect new directors comprising a majority of the Board of Directors who could approve the Merger (or any similar transaction requiring the approval of the Board of Directors). Under Delaware law, the Certificate cannot be amended unless the proposed amendment is first approved by the Company's Board of Directors.

In addition, unless the Merger is consummated pursuant to a Short-Form Merger, the approval of the holders of the Common Shares will be required under Delaware law to effect the Merger. Generally, the DGCL requires that the Merger be approved by the holders of a majority of the outstanding Common Shares. Accordingly, assuming satisfaction (and not waiver) of the Minimum Tender Condition, the Section 203 Condition and the Supermajority Condition, the Purchaser would be able to effect the Merger without the need to seek the approval of other stockholders of the Company. Although holders of Preferred Shares have certain voting rights in connection with some mergers, the Purchaser intends to cause the Preferred Shares to be redeemed prior to the consummation of the Merger.

The Supermajority Requirement. Article EIGHTH, Section 7, Part One of the Certificate provides that a Supermajority Vote (i.e., the affirmative vote of the holders of 80% of the votes entitled to be cast on matters submitted to stockholders generally by all outstanding shares of capital stock of the Company ("*Voting Stock*")) is required to approve, among other things, a merger of the Company with any individual, firm, corporation, or other entity or group that beneficially owns, or within the preceding two years owned, directly or indirectly, more than 10% of the outstanding Common Shares, or certain transferees thereof (a "*10% Holder*"), unless (x) such transaction is approved (before or after the 10% Holder becomes such) by a majority of those directors (the "*Continuing Directors*") who are unaffiliated with the 10% Holder and either were in office before the 10% Holder became such or were elected to succeed a Continuing Director and were approved by a majority of the Continuing Directors or (y) each of the following conditions are satisfied (the "*Price Alternative*"):

(i) the aggregate amount of (x) cash and (y) the fair market value (as defined) of consideration other than cash to be received per share by holders of Common Shares in such merger shall be at least equal to the highest of the following:

(a) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by or on behalf of the 10% Holder for any Common Shares in connection with the acquisition by the 10% Holder of beneficial ownership of such Shares (1) within the two-year period immediately prior to the first public announcement of the proposal of the merger (the "*Announcement Date*") or (2) in the transaction in which it became a 10% Holder, whichever is higher;

(b) the fair market value per Common Share (defined as the highest closing sale price during the 30-day period immediately preceding the date in question) on the Announcement Date or on the date on which the 10% Holder became a 10% Holder, whichever is higher;

(c) the price per share equal to the fair market value per Common Share determined pursuant to (b) above, multiplied by the ratio of (1) the highest per share price (including any brokerage commissions, transfer taxes and soliciting dealers' fees) paid by or on behalf of the 10% Holder for any Common Share within the two-year period immediately prior to the Announcement Date to (2) the fair market value per Common Share on the first day in such two-year period on which the 10% Holder acquired beneficial ownership of any Common Shares; and

(d) the earnings per Common Share for the four full consecutive fiscal quarters immediately preceding the record date for solicitation of votes on such merger, multiplied by the then price/earnings multiple (if any) of such 10% Holder as customarily computed and reported in the financial community;

(ii) the consideration to be received by holders of Voting Stock shall be in cash or in the same form as previously has been paid by or on behalf of the 10% Holder in connection with its direct or indirect acquisition of beneficial ownership of Voting Stock;

(iii) after such 10% Holder has become a 10% Holder and prior to the consummation of such merger: (a) except as approved by a majority of the Continuing Directors, there shall have been no failure to declare and pay at the regular date therefor any full quarterly dividends (whether or not cumulative) on the outstanding Preferential Stock (as defined in the Certificate); (b) there shall have been (1) no reduction in the annual rate of dividends paid on the Common Shares (except as necessary to reflect any subdivision of the Common Shares), except as approved by a majority of the Continuing Directors, and (2) an increase in such annual rate of dividends as necessary to reflect any reclassification (including any reverse stock split), recapitalization, reorganization or any similar transaction that has the effect of reducing the number of outstanding Common Shares, unless the failure so to increase such annual rate is approved by a majority of the Continuing Directors; and (c) such 10% Holder shall not have become the beneficial owner of any additional shares of Voting Stock except as part of the transaction that results in such 10% Holder becoming a 10% Holder and except in a transaction that, after giving effect thereto, would not result in any increase in the 10% Holder's percentage beneficial ownership of any class of Voting Stock;

(iv) after such 10% Holder has become a 10% Holder, such 10% Holder shall not have received the benefit, directly or indirectly (except proportionately as a stockholder of the Company), of any loans, advances, guarantees, pledges or other financial assistance or any tax credits or other tax advantages provided by the Company, whether in anticipation of or in connection with such merger or otherwise;

(v) a proxy or information statement describing the proposed merger, containing the recommendation of the Continuing Directors (and if deemed advisable by them, of an investment banking firm) with respect thereto and complying with the requirements of the Exchange Act shall be mailed to all stockholders of the Company at least 30 days prior to the consummation of such merger (whether or not such proxy or information statement is required to be mailed pursuant to the Exchange Act); and

(vi) such 10% Holder shall not have made any major change in the Company's business or equity capital structure without the approval of the majority of the Continuing Directors.

The Purchaser is unable at this time to determine, assuming satisfaction of the procedural requirements described above, the price per Common Share that would satisfy the price criteria described in (i) above. The Purchaser believes, however, that such price may be higher than the price to be paid pursuant to the Offer. The Purchaser has no current intention, in any event, of paying more per Share in the Merger than in the Offer in order to satisfy the Price Alternative. Consequently, the Supermajority Condition would be satisfied only if, prior to consummation of the Offer, the Continuing Directors approved the Merger or if, after consummation of the Offer, the Purchaser would beneficially own at least 80% of the outstanding Common Shares.

If the Supermajority Condition is waived and a majority of the Continuing Directors do not approve the Merger and the Purchaser and its affiliates acquire more than 10% of the outstanding Common Shares pursuant to the Offer or otherwise, then a Supermajority Vote would be necessary to permit the Merger.

Preferred Share Covenants. Article FOURTH, Section I of the Certificate sets forth certain financial covenants and restrictions on mergers which can be waived only with the consent of the holders of at least two-thirds of the Preferred Shares. Although the Purchaser presently intends to cause the Company to redeem the Preferred Shares prior to consummation of the Merger, if the Purchaser acquires two-thirds or more of the Preferred Shares, such covenants and restrictions can be waived without the need to seek the approval of other holders of Preferred Shares. The certificate of designations, preferences and rights of the Preferred Shares provides that Preferred Shares may be redeemed, in whole or in part, at any time for $107.75 per Share (plus accrued and unpaid dividends). The Purchaser will need to obtain control of the Company's Board of Directors to cause such a redemption.

The foregoing summaries of certain provisions of the Certificate are qualified by reference to the text thereof as filed with the SEC and which can be examined or copies obtained as set forth in Section 8.

Section 203. Following recent passage by the General Assembly of the State of Delaware and the State Senate of the State of Delaware, Section 203 of the DGCL was signed by the Governor of Delaware and became effective on February 2, 1988. In general, Section 203 would prevent an Interested Stockholder (as defined in the Introduction to this Offer to Purchase) from engaging in a "Business Combination" with a Delaware corporation for three years following the date such person became an Interested Stockholder. Subject to certain exceptions, Section 203 defines "Business Combination" to include, among other things, (i) mergers or consolidations, (ii) the sale, lease, exchange, mortgage, pledge, transfer or other disposition of assets having an aggregate market value equal to 10% or more of either the aggregate market value of all assets of the corporation determined on a consolidated basis or the aggregate market value of all the outstanding stock of the corporation; (iii) transactions which result in the issuance or transfer by the corporation or by certain subsidiaries thereof of any stock of the corporation or such subsidiaries to the Interested Stockholder, except pursuant to a transaction which effects a pro rata distribution to all stockholders of the corporation; (iv) any transaction involving the corporation or certain subsidiaries thereof which has the effect of increasing the proportionate share of the stock of any class or series, or securities convertible into the stock of any class or series, of the corporation or any such subsidiary which is owned directly or indirectly by the Interested Stockholder; or (v) any receipt by the Interested Stockholder of the benefit (except proportionately as a stockholder) of any loans, advances, guarantees, pledges or other financial benefits provided by or through the corporation.

Section 203 does not apply to a Business Combination if (i) before a person became an Interested Stockholder, the Board of Directors of the corporation approved the transaction in which the Interested Stockholder became an Interested Stockholder or approved the Business Combination; (ii) upon consummation of the transaction which resulted in the Interested Stockholder becoming an Interested Stockholder, the Interested Stockholder owned at least 85 percent of the voting stock of the corporation outstanding at the time the transaction commenced (other than Excluded Shares, as defined in the Introduction to this Offer to Purchase); or (iii) following the transaction in which such person became an Interested Stockholder, the Business Combination is (a) approved by the Board of Directors of the corporation and (b) authorized at a meeting of stockholders (and not by written consent) by the affirmative vote of the holders of at least two thirds of the outstanding voting stock of the corporation not owned by the Interested Stockholder. In addition, under Section 203 the restrictions described above do not apply if, among other things, the corporation, by action of its board of directors, adopts an amendment to its bylaws within 90 days of the effective date of Section 203 expressly electing not to be governed by Section 203, which amendment may not be further amended by the Board of Directors.

The Section 203 Condition therefore would be satisfied if (i) the Company's Board of Directors adopted an amendment to the Company's By-Laws on or prior to May 2, 1988 electing not to be governed by Section 203, (ii) the Company's Board of Directors approved the Offer or the Merger prior to consummation of the Offer, (iii) after consummation of the Offer, the Purchaser would own at least 85% of the Common Shares outstanding at the time of commencement of the Offer (other than the Excluded Shares) or (iv) Section 203 was found in a final judgment by a court of competent jurisdiction to be invalid as applied to the Offer and the Merger. The Purchaser has commenced litigation in the United States District Court in Delaware seeking such a judgment.

The Rights. On February 24, 1986, the Board of Directors of the Company declared a dividend distribution to stockholders of record on March 12, 1986 of one Right for each outstanding Common Share of the Company. The Rights Agreement was amended on January 14, 1988. The Purchaser believes that the Rights are not exercisable at this time, Rights Certificates have not been issued and the Rights are evidenced by the certificates for the Common Shares. At the close of business on the Distribution Date (as defined in the Introduction to this Offer to Purchase), the Rights will become exercisable and separate Rights Certificates will be distributed as soon as practicable. If and when the Rights become exercisable, each Right would entitle its registered holder to purchase one Unit from the Company for cash in the amount of the Purchase Price (as defined in the Introduction to this Offer to Purchase), subject to adjustment.

Until the Distribution Date, the Rights will be transferable with and only with the Common Shares. Until the Distribution Date (or earlier redemption or expiration of the Rights), new Common Share certificates issued after March 12, 1986, upon transfer or new issuance of Common Shares, will contain a notation incorporating the Rights Agreement by reference, and the surrender for transfer of any Common Share certificates will also constitute the transfer of the Rights associated with the Common Shares represented by such certificates. As soon as practicable following the Distribution Date, Rights Certificates will be mailed to holders of record of the Shares as of the close of business on the Distribution Date and such separate Rights Certificates alone will evidence the Rights.

In the event that (i) the Company is the surviving corporation in a merger or other business combination with an Acquiring Person and the Common Shares are not changed or exchanged, or (ii) any person becomes the beneficial owner of more than 30% of the then outstanding Common Shares other than pursuant to an Approved Offer (as defined in the Introduction to this Offer to Purchase), then, proper provision will be made so that each holder of a Right, other than Rights that have become null and void as described below, will thereafter have the right to receive, upon exercise thereof at the then current Purchase Price, and in lieu of a Unit, Common Shares (or in certain circumstances, a combination of cash, other property, Common Shares and/or other securities) which will be calculated to have a value of two times the Purchase Price. Following the occurrence of either of the events described above in this paragraph, any Rights that are or (under certain circumstances specified in the Rights Agreement) were, beneficially owned by any Acquiring Person shall immediately become null and void.

In the event that, at any time following the Stock Acquisition Date (as defined in the Introduction to this Offer to Purchase), (a) the Company is acquired in a merger or other business combination transaction in which the Company is not the surviving corporation or in which the Common Shares are exchanged or changed (other than an Approved Acquisition (as defined in the Introduction to this Offer to Purchase)), or (b) 50% or more of the Company's assets or earning power are sold, then, proper provision will be made so that each holder of a Right, other than Rights that have become null and void as described above, will thereafter have the right to receive, upon the exercise thereof at the then current Purchase Price, common stock of the acquiring company which has a value of two times the Purchase Price.

The Rights will expire on March 11, 1996, unless earlier redeemed by the Company or extinguished upon the consummation of an Approved Acquisition. At any time until ten days following the Stock Acquisition Date, the Board of Directors of the Company may redeem the Rights in whole, but not in part, at a price of $.05 per Right (the "*Redemption Price*"), payable in cash, Common Stock or any other form of consideration deemed appropriate by the Board of Directors. Thereafter, the Company's right of redemption may be reinstated if an Acquiring Person reduces his beneficial ownership to 10% or less of the outstanding Common Shares in a transaction or series of transactions not involving the Company.

Immediately upon the action of the Board of Directors ordering redemption of the Rights, the right to exercise the Rights will terminate and the only right of the holder of Rights will be to receive the Redemption Price.

Until a Right is exercised, the holder thereof, as such, will have no rights as a stockholder of the Company, including, without limitation, the right to vote or to receive dividends.

The foregoing description of the Rights is qualified in its entirety by reference to the text of the Rights Agreement included in the Form 8-A and the amendment thereto contained in the Form 8 Amendment to the Form 8-A, both of which may be obtained in the manner set forth in Section 8.

The Purchaser believes that under the circumstances of the Offer and under applicable law, the Board of Directors of the Company is obliged by its fiduciary responsibilities either to cause the Offer to be an Approved Offer or to redeem the Rights so as to permit stockholders to take advantage of the Offer. Accordingly, the Purchaser has requested the Board of Directors of the Company to take all necessary action to redeem the Rights so that stockholders will have the opportunity to receive the Offer price in cash for each of their Shares. The Purchaser has commenced litigation seeking to cause the Rights to be redeemed or to have the Rights declared invalid as applied to the Offer and the Merger.

Appraisal and Other Rights. If the Merger is consummated, stockholders of the Company will have certain rights under Delaware law to dissent and demand appraisal of, and to receive payment in cash of the fair value of, their Common Shares. If the statutory procedures were complied with, such rights could lead to a judicial determination of the fair value (excluding any element of value arising from the accomplishment or expectation of the Merger) required to be paid in cash to such dissenting holders for their Common Shares. Any such judicial determination of the fair value of Common Shares could be based upon considerations other than or in addition to the price paid in the Offer or the market value of the Common Shares, including asset values and the investment value of the Common Shares. The value so determined could be more or less than the purchase price per Common Share pursuant to the Offer or the consideration per Common Share to be paid in the Merger.

In addition, several recent decisions by Delaware courts have held that, in certain instances, a controlling stockholder of a corporation involved in a merger has a fiduciary duty to the other stockholders that requires the controlling stockholder to demonstrate that the merger is entirely fair to such other stockholders. In determining whether a merger is fair to minority stockholders, the Delaware courts have considered, among other things, the type and amount of consideration to be received by the stockholders and whether there were fair dealings among the parties. The Delaware Supreme Court indicated in *Weinberger v. UOP, Inc.* and *Rabkin v. Philip A. Hunt Chemical Corp.* that the remedy ordinarily available to minority stockholders in a cash-out merger is the right to appraisal described above.

Rule 13e-3 under the Exchange Act is applicable to certain "going private" transactions. The Purchaser believes, however, that Rule 13e-3 will not be applicable to the Merger if the Merger is consummated within one year after the Expiration Date at the same per Share price as paid in the Offer. If applicable, Rule 13e-3 would require, among other things, that certain financial information concerning the Company, and certain information relating to the fairness of the proposed transaction and the consideration offered to minority stockholders in such transaction, be filed with the SEC and disclosed to minority stockholders prior to consummation of the transaction.

Other. Any of the Purchaser, the Partnership, the Partners and the Parents may, following the consummation or termination of the Offer, seek to acquire additional Shares or Rights through open market purchases, privately negotiated transactions, a tender offer or exchange offer, or otherwise, upon such terms and at such prices as it shall determine, which may be more or less than the price to be paid pursuant to the Offer. The Purchaser, the Partnership, the Partners and the Parents and their respective affiliates also reserve the right to dispose of any or all Shares acquired by them.

The exact timing and details of the Merger will depend upon a variety of factors and legal requirements and the number of Shares acquired by the Purchaser pursuant to the Offer, and upon the approval of the Company's Board of Directors and stockholders if required by applicable law or the terms of the Certificate or the By-Laws of the Company. Although it is the Purchaser's intention, if each of the Rights Condition, the Section 203 Condition and the Supermajority Condition is satisfied and not waived, to propose and seek to consummate the Merger, the Purchaser can give no assurance that the Merger will be consummated or as to the timing of the Merger. The Purchaser expressly reserves the right not to propose any merger or similar business combination involving the Company, or to propose a merger or other business combination on terms other than those set forth herein, and its ultimate decision could be affected by information hereinafter obtained by the Purchaser, changes in general economic or market conditions or in the business of the Company and other factors.

Upon consummation of the Merger or, possibly, the Purchaser's earlier acquisition of control of the Company's Board of Directors, the Purchaser intends to cause the Company to sell its Chemical and Allied Products business. As discussed in Section 13, the Purchaser may cause the Company to sell an aggregates plant located in Southern California if necessary in connection with certain antitrust considerations. In addition, the Purchaser intends to cause the Company to sell other (as yet unidentified) assets in order to repay Part A of the Merger Facility described above (see Section 10) to the extent proceeds from the sale of the Chemical and Allied Products business and from any such sale of such aggregates plant are not sufficient to make such repayment.

Upon completion of the Offer, the Purchaser intends to conduct a detailed review of the Company and its assets, its corporate structure, dividend policy, capitalization, operations, properties, policies, management and personnel and consider what, if any, changes would be desirable in light of the circumstances which then exist. Such changes could include, in addition to those described above, changes in the Company's business, corporate structure, certificate of incorporation, by-laws, capitalization, Board of Directors, management or dividend policy.

Except as noted in this Offer to Purchase, the Purchaser has no present plans or proposals that would result in an extraordinary corporate transaction, such as a merger, reorganization, liquidation, relocation of operations, or sale or transfer of assets, involving the Company or any of its subsidiaries, or any material changes in the Company's corporate structure, business or composition of its management or personnel.

13. *Certain Legal Matters.*

General. Based on a review of publicly available filings by the Company with the SEC and other publicly available information concerning the Company, the Purchaser is not aware of any license or regulatory permit that appears to be material to the business of the Company that might be adversely affected by the Purchaser's acquisition of Shares as contemplated herein.

Except as described in this Section 13, the Purchaser is not aware of any other approval or other action by any federal or state governmental or administrative authority that would be required for the acquisition of Shares by the Purchaser as contemplated herein. Should any such approval or other action be required, it is currently contemplated that such other approval or action would be sought. There is, however, no present intention to delay the purchase of Shares tendered pursuant to the Offer pending the outcome of any such matter. There can be no assurance that any such other approval or other action, if needed, would be obtained without substantial conditions or that adverse consequences might not result to the Company's business in the event that such other approvals were not obtained or such other actions were not taken. The Purchaser's obligations under the Offer to accept for payment and pay for the Shares is subject to certain conditions. See Section 16.

Antitrust Compliance. The HSR Act provides that the acquisition of Shares by the Purchaser pursuant to the Offer may not be consummated unless certain information has been furnished to the Antitrust Division and the FTC and certain waiting periods have expired. The rules promulgated by the FTC under the HSR Act require that a Notification and Report Form (a "*Form*") be filed by each "ultimate parent entity" of the Purchaser. Beazer PLC and American Express Company (the "ultimate parent entity" of SLBHI) will file a Form with the Antitrust Division and the FTC. The rules also provide that the acquisition of Shares under the Offer may not be consummated until 15 days after receipt from Beazer PLC and American Express Company by the Antitrust Division and the FTC of such Forms in substantial compliance with the rules, unless any request to terminate the period earlier is granted by the Antitrust Division and the FTC. Within such 15-day period the Antitrust Division or the FTC may request additional information and/or documentary material from Beazer PLC and/or American Express Company. The HSR Act generally provides that the Offer may not be consummated, and the purchase of the tendered Shares may not be made, until at least 10 days after receipt by the Antitrust Division or the FTC, as the case may be, of all requested additional information and documentary material, unless any request to shorten the period is granted. See Section 2 as to the effect of the HSR Act on the timing of the Purchaser's obligation to accept the Shares for payment. Beazer PLC and American Express Company expect to file their Forms with the Antitrust Division and the FTC on March 3, 1988 and the waiting period with respect to the Offer will expire, assuming filing on March 3, 1988 and no request for additional information, at 11:59 P.M., New York City time, on March 18, 1988. Although the Company is required to file certain information and documentary material with the Antitrust Division and the FTC in connection with the Offer, neither the Company's failure to make such filings nor a request from the Antitrust Division or the FTC for additional information or documentary material made to the Company will extend the waiting period with respect to the Offer.

The Antitrust Division and the FTC frequently scrutinize the legality under the antitrust laws of transactions such as the Purchaser's acquisition of Shares. At any time before or after the Purchaser's purchase of Shares, the Antitrust Division or the FTC could take such action under the antitrust laws as it deems necessary or desirable in the public interest, including seeking to enjoin the acquisition of Shares pursuant to the Offer or seeking divestiture of Shares acquired by the Purchaser or of substantial assets of the Parents or the Company. Private parties may also seek to take action under the antitrust laws. See Section 16 for certain conditions to the Offer which affect the Purchaser's obligations under the Offer to accept Shares for peyment.

During its inquiry into the operations of the Company, the Purchaser and Beazer PLC identified a product, construction sand and gravel or "aggregate," that is produced both by a wholly owned subsidiary of the Company and by a wholly owned subsidiary of Beazer PLC in the same general geographic area in Southern California, *i.e*, the San Gabriel basin near Irwindale. The combination of these operations could be viewed as raising a question under the antitrust laws. The Purchaser and Beazer PLC will cooperate with the FTC and the Antitrust Division to insure that any concern either may have in this respect is appropriately met. The Purchaser and Beazer PLC will advise the FTC and the Antitrust Division that if necessary to resolve any such concern, they are willing to enter into a consent decree that would provide for the sale of the Irwindale aggregate plant of the Company in the event that the Offer is successful.

Based on the information available to it, the Purchaser is not aware of any other situation in which its acquisition of the Company would raise questions under U.S. antitrust laws. There can be no assurance, however, that the FTC or the Antitrust Division will not seek more information from Beazer PLC or American Express Company under the HSR Act or that a challenge to the Offer on antitrust grounds will not be made or, if a challenge is made, what the result will be. See Section 16 for certain conditions to the Offer.

Federal Reserve Board Regulation. Federal Reserve Board Regulations G, T, U and X restrict extensions of credit for the purpose of buying or carrying margin stock. Regulations G and U generally provide that credit used to buy or carry margin stock which is directly or indirectly secured by margin stock may not exceed 50% of the market value of the margin stock securing the credit at the time such credit is extended. As stated in an interpretation issued by the Federal Reserve Board in January 1986, the Board is of the view that debt securities issued by a "shell" corporation to finance an acquisition or margin stock may be deemed indirectly secured by that margin stock for purposes of the margin regulations. Based on its understanding of Regulations G, T, U and X, published interpretations of the Board and other authorities, the Purchaser believes that the Bank Facilities will be in compliance with Regulation U and that Regulations G, T, U and X are or will be inapplicable to the other arrangements described in Section 10.

The Purchaser is aware of an unreported Order issued by the Federal District Court for the Central District of California where, in the context of a preliminary injunction, the Court ruled that the moving party showed a probability of successfully demonstrating that under the facts there presented an issue of securities designated as preferred stock constituted an extension of credit for margin purposes, and that such extension of credit would, under the circumstances of that case, violate Regulation G. The Purchaser believes, without conceding the correctness of such decision, that such determination was based on facts distinguishable from those here present. In particular, the Purchaser believes that the terms of the Series B Preferred Stock, insofar as they are now agreed and as they will be finally determined, are and will be materially different from those of the preferred stock in question in the California proceeding. A challenge to the Purchaser's financing alleging a violation of the margin regulations could, if adversely determined, impair the Purchaser's ability to obtain financing for the Offer.

United Kingdom. Consent is required from the Treasury of the United Kingdom prior to causing or permitting a body corporate resident outside the United Kingdom to carry out certain transactions (unless at the relevant times those transactions fall within any general exemptions then in force). Application has been made to the Treasury of the United Kingdom for the consents necessary in connection with the acquisition of the Company and the financing therefor.

The Purchaser has been advised that the acquisition of the Company may give rise to a merger situation qualifying for investigation under Part V of the Fair Trading Act of 1973 of the United Kingdom (the "*Fair Trading Act*"). If it appears to the Secretary of State for Trade and Industry (the "*Secretary of State*") that this is the case, he is empowered to refer the proposed acquisition of the Company to the Monopolies and Mergers Commission (the "*MMC*"). The MMC would, in such event, be required to investigate and report on whether such a merger situation qualifying for investigation has been or will be created by the acquisition and, if so, whether the proposed acquisition operates, or may be expected to operate, against the public interest. At the time a reference to the MMC is made, the Secretary of State has statutory power to make an interim order to prevent action which might prejudice the reference or impede the taking of any action under the Fair Trading Act which may be warranted by the MMC report on the reference. Once the MMC has made its report, the Secretary of State has wide powers to make an order remedying or preventing any adverse effects of the acquisition identified in the MMC report. The Director General of Fair Trading is responsible for advising the Secretary of State as to whether a completed or proposed merger should be referred to the MMC. The Office of Fair Trading has been approached for an indication that it is not the intention of the Secretary of State to refer the acquisition of the Company to the MMC.

As a company listed on the London Stock Exchange (the "*LSE*"), Beazer PLC is required to comply with the rules of the LSE in connection with acquisitions or dispositions. The investment by Beazer PLC in the Purchaser in connection with the Offer falls within a classification which requires the transaction to be approvod by holders of a majority of the Ordinary Shares of Beazer PLC voting at the Beazer PLC Shareholder Meeting.

The satisfaction of each of the foregoing United Kingdom legal or regulatory requirements is a condition to the Offer. The Beazer PLC Shareholder Meeting has been called for March 21, 1988. See Section 16.

State Takeover Laws. The Company and certain of its subsidiaries conduct business in a number of states other than Delaware which have adopted takeover laws which purport, in varying degrees, to be applicable to attempts to acquire securities of corporations which are incorporated in such states or which have substantial assets, stockholders, principal executive offices or principal places of business therein. To the extent that certain provisions of these state takeover laws purport to apply to the Offer, the Purchaser believes that such statutes conflict with federal law and constitute an unreasonable burden on interestate commerce. In this regard, it should be noted that in 1982, the Supreme Court of the United States in *Edgar v. MITE Corporation* invalidated on constitutional grounds the Illinois Business Takeover Act, which, as a matter of state securities law, made takeovers of corporations meeting certain requirements more difficult. In 1987 in *CTS Corporation v. Dynamics Corporation of America*, however, the Supreme Court held that a state may, as a matter of corporate law and, in particular, those laws concerning corporate governance and internal affairs, constitutionally disqualify a potential acquiror from voting on the affairs of a target corporation without the prior approval of the remaining stockholders under certain circumstances, in particular, where a corporation has a substantial number of stockholders in the state and is incorporated there.

The Company is incorporated under the laws of the State of Delaware, which currently has no statute similar to that approved in *CTS*, although Delaware recently enacted Section 203. See Section 12. The Purchaser has commenced litigation in the United States District Court in Delaware seeking a declaratory judgment that Section 203 is unconstitutional and invalid as applied to the Offer and the Merger.

In addition, based on publicly available information with respect to the Company, the Purchaser believes that certain state takeover statutes and regulations may purport to apply to the Offer. In particular, the Pennsylvania Takeover Disclosure Law (the "*PTDL*"), among other things, purports to prohibit the making of a Takeover Offer (as defined therein) involving any corporation organized under the laws of Pennsylvania or which has its principal place of business and substantial assets located in Pennsylvania unless the offeror publicly declares his intention to gain control of the target company at least 20 days prior to the commencement of such Takeover Offer. The Company's principal executive offices are located in the Commonwealth of Pennsylvania, as are certain of its assets. The Purchaser believes that the reasoning and holding in *MITE* apply to the PTDL. This position is supported by *Crane Co. v. Lam* and *Shanno v. Magee Industrial Enterprises, Inc.*, decided in 1981 and 1983, respectively, in which the United States District Court for the Eastern District of Pennsylvania found the PTDL to be unconstitutional. The Purchaser believes that the Supreme Court's decision in *CTS* does not change this result.

The Purchaser has commenced a lawsuit in the United States District Court for the Eastern District of Pennsylvania seeking both a declaratory judgment that the PTDL is invalid and an injunction against its enforcement in connection with the Offer.

If other state takeover statutes are, by their terms, applicable to the Offer, the Purchaser believes that they conflict with federal law and constitute an unreasonable burden on interstate commerce. The Purchaser has not undertaken to comply with any such statute or regulation. Should any person seek to apply any such statute or regulation to the Offer, the Purchaser will take such action as then appears desirable, and currently anticipates that it would contest the validity of any such statute or regulation in appropriate legal proceedings. If it is asserted that any state takeover laws apply to the Offer and it is not determined that such law or laws do not apply or are invalid as applied to the Offer, the Purchaser might be required to file certain information with the relevant state authorities and the Company and/or submit its Offer to a vote of the Company's stockholders. In addition, if enjoined, the Purchaser might be unable to accept for payment any Shares tendered pursuant to the Offer, or be delayed in consummating the Offer. In such case, the Purchaser may not be obligated to accept for payment any Shares tendered. See Section 16.

Investment Canada Act and Competition Act. The Purchaser understands, on the basis of publicly available information, that the Company owns certain businesses and assets in Canada. The Purchaser is not aware of the exact nature of the Company's interests in Canada. The Purchaser understands that the Investment Canada Act (the "*Act*") requires that notice of the acquisition of "control" by "non-Canadians" (as defined in the Act) of any "Canadian Business" (as defined in the Act) be furnished to Investment Canada, a Canadian governmental agency, and that certain of these investments be reviewed and determined by the Minister (as defined in the Act) as to whether those investments are "likely to be of net benefit" to Canada based upon criteria set forth in the Act. All indirect acquisitions of Canadian businesses with assets of Cdn. $50,000,000 or more or of Canadian businesses with assets between Cdn. $5,000,000 and Cdn. $50,000,000 which represent more than 50% of the value of the total international transaction would require review and determination by the Minister that disinvestment is "likely to be of net benefit" to Canada. An indirect acquisition is the acquisition of control of a Canadian business through the acquisition of control of its parent outside Canada. The Act creates a rebuttable presumption that the acquisition of less than a majority but one-third or more of the voting shares of a corporation is an acquisition of control and provides that the acquisition of a majority of the voting shares of a corporation shall be deemed to be an acquisition of control.

The acquisition of Shares by the Purchaser pursuant to the Offer may constitute an acquisition of "control" of the business carried on by the Company's Canadian subsidiaries and thus the acquisition of a "Canadian business" within the meaning of the Act. In this event, if, within certain specified periods of time provided in the Act, the Minister was not satisfied that the acquisition was likely to be of "net benefit" to Canada, the Purchaser would be required by the Act to divest itself of control of the Company's Canadian business. If the Act is applicable, the Purchaser intends to comply with it in connection with its proposed acquisition of Shares pursuant to the Offer, including, if necessary, to seek the approval of the Minister of such acquisition. If the Purchaser determines that other Canadian laws or regulations are applicable to the Offer, it intends to seek to comply with, or seek orders from the appropriate authorities exempting it from compliance with, such laws or regulations. If the Purchaser is unable to obtain any such exemptive order, the Purchaser may not be obligated to accept Shares for payment. See Section 16.

In addition, certain provisions of Canada's Competition Act require pre-notification to the Director of Investigation and Research (the "*Director*") of significant corporate transactions, such as the acquisition of a large percentage of the stock of a public company which has Canadian operations, or a merger or consolidation involving such an entity. Pre-notification is generally required with respect to transactions ("*Notifiable Transactions*") in which the parties to the transaction and their affiliates have assets in Canada, or annual gross revenues from sales in, from or into Canada, in excess of Cdn. $400 million and which involve the direct or indirect acquisition of an operating business, the value of the assets of which, or the gross revenues from sales in or from Canada generated from these assets, exceed Cdn. $35 million per year (or, in the case of an amalgamation of two or more operating businesses, the assets of the entity resulting from such amalgamation or consolidation or the entities controlled by such entity exceed Cdn. $70 million per year). If a transaction is a Notifiable Transaction it may not be completed prior to the expiration or earlier termination of the applicable waiting period after notice of such transaction has been delivered to the Director. The waiting period may be seven or 21 days, depending upon the information provided to the Director. If the Director determines that the Notifiable Transaction would have the likely effect of lessening or preventing competition in a definable market, the Director may apply to the Competition Tribunal (a special purpose Canadian tribunal) to require, among other things, the disposition of the Canadian assets acquired in such Notifiable Transaction. The Purchaser intends to file notice of its acquisition of Shares with the Director, if required. See Section 16.

Other Foreign Approvals. Based upon the Purchaser's examination of publicly available information concerning the Company, it appears that the Company and its subsidiaries own property and conduct business in a number of other foreign countries. In connection with the acquisition of the Shares pursuant to the Offer, the laws of certain of these foreign countries may require the filing of information with, or the obtaining of the approval of, certain governmental authorities therein. After commencement of the Offer, the Purchaser will seek further information regarding the applicabability of any such laws and currently intends to take such action as they may reasonably require. If any action is taken prior to completion of the Offer by any such government which, in the sole judgment of the Purchaser, might adversely affect the Company or any of its subsidiaries or affiliates, or any Group Member or any of their respective affiliates or subsidiaries, the Purchaser will not be obligated to accept for payment or pay for any Shares which are tendered. See Section 16.

New Jersey Environmental Cleanup Responsibility Act. Publicly available documents indicate that the Company's principal plants within the United States are located in states other than New Jersey, but on the basis of publicly available information, the Purchaser nonetheless believes that the Company may own and/or operate some industrial facilities in that State. If the Company in fact owns and/or operates such facilities in New Jersey, the Company could be subject to the New Jersey Environmental Cleanup Responsibility Act of 1983 ("*ECRA*") which requires that the New Jersey Department of Environmental Protection ("*NJDEP*") approve the sale or transfer of certain "industrial establishments" in New Jersey. ECRA applies to the sale or transfer of places or business that fall within certain Standard Industrial Classification codes and have been used for certain hazardous substance or waste management activities. If applicable, ECRA provides that certain requirements be met prior to consummation of a transaction involving the sale or transfer of such industrial establishments. NJDEP has in the past issued Administrative Consent Orders, however, to permit transactions such as the Offer and the Merger to be consummated prior to compliance with ECRA's requirements. Administrative Consent Orders are issued at NJDEP's discretion and typically prescribe a fixed timetable for compliance with ECRA's requirements, establish civil penalties for failure to meet the timetable, and require the posting of a bond or other form of financial surety acceptable to NJDEP to secure future performance of ECRA obligations. If ECRA should be applicable to any of the Company's facilities, subject to the provisions of Section 16, the Purchaser intends to take whatever action is reasonably necessary to comply with ECRA's requirements, including the provision of a reasonable bond or other form of financial surety acceptable to NJDEP.

14. *Dividends and Distributions.* Unless the Rights have been redeemed, stockholders will be required to tender one Right for each Share tendered. If, on or after February 26, 1988, the Company should declare any dividend or other distribution (including, without limitation, the issuance of additional Shares pursuant to a stock dividend or stock split or the issuance of rights (other than the Rights) for the purchase of any securities) with respect to the Shares (other than $0.05 payable on redemption of the Rights or a regular quarterly cash dividend not in excess of $.30 per Common Share and $1.00 per Preferred Share, in each case, with usual record and payment dates in accordance with the Company's past dividend practice) or the Rights that is payable or distributable to stockholders of record on a date occurring prior to the transfer to the name of the Purchaser or its nominees or transferees on the Company's stock transfer records of the Shares or the Rights purchased pursuant to the Offer, then, subject to the provisions of Section 16, (i) the purchase price per Share payable by the Purchaser pursuant to the Offer will be appropriately reduced to reflect any such cash dividend or distribution, and (ii) the whole of any non-cash dividend or distribution (including, without limitation, additional Shares or rights as aforesaid) will be required to be remitted promptly and transferred by each tendering stockholder to the Depositary for the account of the Purchaser accompanied by appropriate documentation of transfer and, pending such remittance or appropriate assurance thereof, the Purchaser will be entitled to all rights and privileges as owner of any such non-cash dividend, distribution or right, and may withhold the entire purchase price or deduct from the purchase price the amount or value of such non-cash dividend, distribution or right, as determined by the Purchaser in its sole discretion.

The Company's Board of Directors has declared dividends of $0.30 per Common Share and $1.00 per Preferred Share, payable March 15, 1988 for Common Shares and April 1, 1988 for Preferred Shares, in each case to holders of record of Shares on February 19, 1988. Holders of record of Shares on such date will be entitled to receive and retain such dividends whether or not they tender their Shares pursuant to the Offer. In the event that the Company subsequently declares a regular quarterly dividend (not in excess of $.30 per Common Share and $1.00 per Preferred Share, in each case, with usual record and payment dates in accordance with the Company's past dividend practice) payable to stockholders of record on a date prior to the date on which Purchaser accepts for payment and makes payment for such Shares, the stockholders of record on the record date will be entitled to receive such dividends regardless of whether they tender their Shares.

If, on or after March 2, 1988, the Company should split the Shares or combine or otherwise change the Shares or its capitalization, then, subject to the provisions of Section 16, appropriate adjustments to reflect such split, combination or change may be made by the Purchaser in the purchase price and other terms of the Offer, including, without limitation, the number or type of securities offered to be purchased.

15. *Extension of Tender Period; Termination; Amendment.* The Purchaser reserves the right (but will not be obligated), at any time or from time to time, to extend the period of time during which the Offer is open by giving oral or written notice of such extension to the Depositary and making a public announcement thereof no later than 9:00 A.M., New York City time, on the next business day after the previously scheduled Expiration Date. During any such extension, all Shares previously tendered and not purchased or withdrawn will remain subject to the Offer.

The Purchaser also expressly reserves the right: (i) to delay payment for any Shares regardless of whether such Shares were theretofore accepted for payment, or to terminate the Offer and not accept for payment or pay for any Shares not theretofore purchased or paid for, on the occurrence of any of the conditions set forth in Section 16 by giving oral or written notice of such delay or termination to the Depositary and (ii) to amend the Offer in any respect at any time. Any delay in payment, termination or amendment of the Offer will be followed as promptly as practicable by public announcement thereof.

Without limiting the manner in which the Purchaser may choose to make any public announcement, the Purchaser shall have no obligation to publish, advertise or otherwise communicate any such public announcement other than by issuing a press release to the Dow Jones News Service, unless under the circumstances such issuance would not be considered reasonably designed to inform security holders of such public announcement, in which case the Purchaser shall publish, advertise or otherwise communicate such public announcement in a manner so reasonably designed.

16. *Certain Conditions of the Offer.* Notwithstanding any other provision of the Offer, the Purchaser shall not be required to accept for payment or pay for, and may delay the acceptance for payment of or payment for, Shares, or, in the sole discretion of the Purchaser, terminate or amend the Offer as to any Shares not theretofore accepted for payment or paid for if (i) prior to the Expiration Date any of the Minimum Tender Condition, the Rights Condition, the Section 203 Condition, the Supermajority Condition, the Financing Condition or the Beazer Shareholder Vote Condition is not satisfied or (ii) at any time on or after February 26, 1988 and prior to the time of payment for any such Shares (whether or not any other Shares have theretofore been accepted for payment or paid for pursuant to the Offer), any of the following events shall occur or shall be determined by the Purchaser to have occurred:

(a) there shall have been any action taken, or any statute, rule, regulation, judgment, order or injunction proposed, sought, promulgated, enacted, entered, enforced or deemed applicable to the Offer or the Merger, by any state, federal or foreign government or governmental authority or by any court, domestic or foreign, that, in the sole judgment of the Purchaser, might (i) make the acceptance for payment of, the payment for, or the purchase of, some or all of the Shares illegal or otherwise restrict or prohibit consummation of the Offer and/or the Merger, (ii) result in a delay in or restrict the ability of the Purchaser, or render the Purchaser unable, to accept for payment, pay for or purchase some or all of the Shares, (iii) require the divestiture by the Purchaser, the Partnership, the Partners, the Parents, the Company or any of their respective subsidiaries or affiliates of all or any portion of the business, assets or property of any of them (other than the possible divestiture described under "*Antitrust Compliance*" in Section 13 (the "*Potential Divestiture*")) or any Shares or impose any limitation on the ability of any of them to conduct their business and own such assets, properties and Shares (other than the Potential Divestiture), (iv) impose material limitations on the ability of the Purchaser, the Partnership, the Partners or the Parents or any of their respective subsidiaries or affiliates to acquire or hold or to exercise effectively all rights of ownership of the Shares, including the right to vote any Shares purchased by any of them on all matters properly presented to the stockholders of the Company, (v) impose any limitations on the ability of the Purchaser, the Partnership, the Partners, the Parents, or any of their respective subsidiaries or affiliates effectively to control in any material respect the business or operations of the Company, the Purchaser, the Partnership, the Partners, the Parents or any of their respective subsidiaries or affiliates, (vi) otherwise adversely affect the Purchaser, the Partnership, the Partners, the Parents, the Company or any of their respective subsidiaries or affiliates (except as a result of the Potential Divestiture) or (vii) result in a material limitation (other than the Potential Divestiture) in the benefits expected to be derived by the Purchaser, the Partnership, the Partners or the Parents or any of their respective subsidiaries or affiliates as a result of the transactions contemplated by the Offer or the Merger; or

(b) there shall have been threatened, instituted or pending any action or proceeding by or before any court or governmental, administrative or regulatory agency or authority or any other person or tribunal, domestic or foreign, that might, directly or indirectly, result in any of the consequences referred to in clauses (i) through (vii) of paragraph (a) above; or

(c) there shall have occurred (i) any general suspension of trading in, or limitation on, prices for, securities on the NYSE or the LSE, (ii) a declaration of a banking moratorium or any suspension of payments in respect of banks in the United States or the United Kingdom, (iii) a commencement of a war, armed hostilities or other national or international calamity directly or indirectly involving the United States or the United Kingdom, (iv) any limitation (whether or not mandatory) by any governmental authority on, or any other event which, in the sole judgment of the Purchaser, might affect, the extension of credit by banks or other financial institutions, (v) a material change in United States, United Kingdom or any other currency exchange rates or a suspension of, or limitation on, the markets therefor, (vi) a significant adverse change in the market price of the Common Shares or in United States or United Kingdom securities or financial markets or (vii) in the case of any of the foregoing existing at the time of the commencement of the Offer, in the sole judgment of the Purchaser, a material acceleration or worsening thereof; or

(d) a tender or exchange offer for any Common Shares shall have been made or publicly proposed to be made by another person, or it shall have been publicly disclosed or the Purchaser shall have learned that (i) any person, entity or "group" (as that term is used in Section 13(d)(3) of the Exchange Act) shall have acquired, or proposed to acquire, more than five percent of the Common Shares, or shall have been granted any option or right, conditional or otherwise, to acquire more than five percent of the Common Shares (other than acquisitions for bona fide arbitrage purposes and other than acquisitions by any person, entity or group which has publicly disclosed such ownership in a Schedule 13D or 13G (or an amendment thereto) on file with the SEC on or prior to March 2, 1988), (ii) any such person, entity or group which has publicly disclosed such ownership prior to such date shall have acquired or proposed to acquire more than one percent of the Common Shares or shall have been granted any option or right to acquire more than one percent of the Common Shares, (iii) any person, entity or group (other than the Purchaser, the Partnership, the Partners or the Parents) shall have entered into a definitive agreement or an agreement in principle or made a proposal with respect to a tender offer or exchange offer for any Common Shares or a merger or consolidation with or involving the Company or (iv) any person shall have filed a Form under the HSR Act or made a public announcement reflecting an intent to acquire the Company or assets or securities of the Company; or

(e) any change (or any condition, event or development involving a prospective change) shall have occurred or been threatened in the business, properties, assets, liabilities, capitalization, stockholders' equity, financial condition, operations, licenses or franchises, results of operations or prospects of the Company or any of its subsidiaries or affiliates, which, in the sole judgment of the Purchaser, is or may be materially adverse to the value of the Company to the Purchaser; or the Purchaser shall have become aware of any fact (including, without limitation, any facts relating to environmental matters) which, in the sole judgment of the Purchaser, is or may be materially adverse with respect to the value of the Company or the value of the Shares to the Purchaser; or

(f) the Company or any subsidiary (or any of their respective Boards of Directors) shall have (i) issued, distributed or sold, or authorized, proposed or announced the issuance, distribution of sale of (A) any shares of capital stock of any class (including without limitation the Shares), or securities convertible into any such shares of capital stock, or any rights, warrants or options to acquire any such shares or convertible securities, other than the Rights and other than Shares issued or sold upon the exercise (in accordance with the terms described in the Company 10-K and the Company's 1987 Proxy Statement) of employee stock options outstanding on March 2, 1988 or (B) any other securities in respect of, in lieu of, or in substitution for Shares outstanding on the date hereof, (ii) proposed to purchase, purchased or otherwise acquired, any outstanding Shares or other securities (except for redemption of Rights pursuant to the Rights Agreement and the purchase of Common Shares pursuant to the Company's previously announced Common Share repurchase program at prices less than the price offered hereby), (iii) declared or paid any dividend or distribution on any Shares (other than a regular quarterly cash dividend not in excess of $.30 per Common Share and $1.00 per Preferred Share, in each case, with usual record and payment dates in accordance with the Company's past dividend practice) or issued, authorized, recommended or proposed the issuance of, any other distribution in respect of the Shares (other than redemption payments of not more than $0.05 per Right), whether payable in cash, securities or other property, or altered or proposed to alter any material term of any outstanding security or any agreement relating to any outstanding security (including the Rights and the Rights Agreement, other than to delay the Distribution Date), (iv) authorized, recommended, proposed or publicly announced its intention to enter into (A) any tender or exchange offer (other than the Offer), merger (other than the Merger), consolidation, liquidation, dissolution, business combination, acquisition of assets or securities, disposition of assets or securities or any comparable events other than in the ordinary course of business, (B) any material change in its capitalization or (C) any release or relinquishment of any material contract rights or any comparable event not in the ordinary course of business, (v) taken any action to implement any such transaction previously authorized, recommended, proposed or publicly announced, (vi) authorized, recommended or proposed or announced its intention to authorize, recommend or propose any transaction which could adversely affect the value of the Shares, (vii) proposed, adopted or authorized any amendment to its certificate of incorporation or by-laws or similar organizational documents, or (viii) the Purchaser shall have learned that the Company or any of its subsidiaries shall have previously taken any action referred to in clauses (i) through (vii) which shall not have been previously disclosed; or

(g) the Company or any of its subsidiaries shall have entered into any employment, severance or similar agreement or plan with any of its employees other than in the ordinary course of business or entered into or amended any agreements, arrangements or plans so as to provide for increased benefits to the employees as a result of or in connection with transactions such as those contemplated by the Offer and the Merger, or the Purchaser shall have learned that the Company or any of its subsidiaries shall have previously taken any such action which shall not have been previously disclosed; or

(h) the Company and the Purchaser or any of its affiliates shall have reached an agreement or understanding that the Offer be terminated or amended or the Purchaser or any of its affiliates shall have entered into a definitive agreement or announced an agreement in principle with the Company providing for a merger or business combination with the Company; or

(i) any waiting periods under the HSR Act or extensions thereof (whether mandatory or by agreement) applicable to the purchase of Shares pursuant to the Offer shall not have expired or been terminated; or

(j) the Office of Fair Trading of England shall not have indicated, on terms satisfactory to both the Purchaser and Beazer PLC, that it is not the intention of the Secretary of State for Trade and Industry to refer the proposed acquisition of the Company to the Monopolies and Mergers Commission; or

(k) all necessary consents shall not have been obtained from the Treasury of the United Kingdom under Section 482 of the Income and Corporation Taxes Act of 1970 of England in connection with the acquisition of the Company and the financing therefor;

which, in the sole judgment of the Purchaser, in any such case, and regardless of the circumstances giving rise to any such condition, makes it inadvisable to proceed with the Offer or the Merger or with such acceptance for payment of or payment for Shares.

The foregoing conditions are for the sole benefit of the Purchaser and may be asserted by the Purchaser regardless of the circumstances giving rise to such condition, including any act or failure to act on the part of any of the Purchaser, the Partnership, the Partners or the Parents, or may be waived by the Purchaser in whole or in part at any time or from time to time in its sole discretion. The failure by the Purchaser at any time to exercise its rights with respect to the foregoing conditions shall not be deemed a waiver of any such condition, and each condition shall be deemed an ongoing condition with respect to which the Purchaser may assert its rights at any time and from time to time. Any determination by the Purchaser or Beazer PLC concerning the above conditions will be final and binding on all parties. The Purchaser's right to delay acceptance for payment of, or payment for, Shares tendered pursuant to the Offer is subject to provisions of applicable law, including, to the extent applicable, Rule 14e-1(c) under the Exchange Act.

17. *Fees and Expenses.* None of the Purchaser, the Partnership, the Partners or the Parents will pay any fees or commissions to any broker or dealer or any person (other than the Dealer Managers or the Information Agent) for soliciting tenders of Shares pursuant to the Offer. Brokers, dealers, commercial banks and trust companies will, upon request, be reimbursed by the Purchaser for customary mailing and handling expenses incurred by them in forwarding material to their customers.

Shearson and County NatWest Limited ("*CNW*") are acting as financial advisors to the Purchaser and the Partnership in connection with the proposed acquisition of the Company, and Shearson and CNWI are acting as Dealer Managers in connection with the Offer. See also Section 10 with respect to certain fees payable to affiliates of Shearson and CNW in connection with the financing of the Offer and the Merger. Fees of $1 million and $375,000, respectively, became payable to Shearson and CNW upon the commencement of the Offer. Additional fees of $8,690,000 and $4,345,000, respectively, less fees previously paid upon commencement of the Offer, will become payable to Shearson and CNW if, prior to October 16, 1989, any of the following (an "*Acquisition Transaction*") shall occur: (i) the acquisition by the Partnership or its affiliates of a number of Common Shares that is sufficient to authorize a merger of the Company with one or more of the Partnership's affiliates without the approving vote of any other holders of Common Shares, (ii) a majority of the Company's Board of Directors being comprised of nominees of the Partnership or its affiliates or (iii) the acquisition by the Partnership or its affiliates of all or substantially all of the Company's assets. The Partnership has agreed to reimburse Shearson and CNW for reasonable fees and expenses of counsel, and to indemnify Shearson and CNW against certain liabilities, including liabilities under the federal securities laws.

Shearson has agreed to act as placement agent or underwriter with respect to the placement of any securities (exclusive of bank and similar senior debt financing) issued in connection with an Acquisition Transaction or the long-term refinancing thereof for underwriting or placement fees equal to 3.5% of the gross proceeds from the issuance thereof. In addition, the Partnership has agreed that, for at least three years after the consummation of an Acquisition Transaction, (i) Shearson shall, on an exclusive basis (except for CNW and its affiliates) provide investment banking services to the Company in connection with any public offering of any debt or equity securities of the Company for competitive fees and (ii) Shearson shall be retained as the Company's exclusive financial advisor (except for CNW and its affiliates) with respect to any merger, acquisition or divestiture by the Company (except any merger, acquisition or divestiture among or between the Company and any of its affiliates) for fees based upon 1% of the fair market value of any consideration involved in any such transaction.

The Purchaser currently expects that the Purchaser will assume all of the Partnership's obligations to Shearson and CNW described above upon the purchase of Shares pursuant to the Offer. See Section 9.

The Purchaser has retained Georgeson & Company Inc. to act as the Information Agent in connection with the Offer. The Information Agent will receive reasonable and customary compensation for such services in an amount to be agreed upon, plus reimbursement of out-of-pocket expenses.

The Depositary will receive reasonable and customary compensation for its services and will be reimbursed for certain reasonable out-of-pocket expenses.

In addition, Beazer PLC has agreed to pay directly to County Ltd., an affiliate of CNW, certain fees in respect of financial advisory services, shareholder relations and certain regulatory and other matters in the United Kingdom.

18. *Miscellaneous.* The Offer is not being made to, nor will tenders be accepted from or on behalf of, holders of Shares in any jurisdiction in which the making of the Offer or the acceptance thereof would not be in compliance with the securities, blue sky or any other laws of such jurisdiction. The Purchaser may, however, at its discretion, take such action as it may deem necessary to make the Offer in any such jurisdiction and extend the Offer to holders of Shares in such jurisdiction. In any jurisdiction the securities laws or blue sky laws of which require the Offer to be made by a licensed broker or dealer, the Offer will be made on behalf of the Purchaser by the Dealer Managers or by one or more registered brokers or dealers that are licensed under the laws of that jurisdiction.

The Purchaser has filed with the SEC the Schedule 14D-1, together with exhibits, pursuant to Rule 14d-3 of the General Rules and Regulations under the Exchange Act, furnishing certain additional information with respect to the Offer. Such Schedule and any amendments thereto, including exhibits, may be examined and copies may be obtained at the same places and in the same manner as set forth with respect to information about the Company in Section 8 (except that such statement and amendments may not be available in the regional offices of the SEC).

No person has been authorized to give any information or make any representation on behalf of the Purchaser, the Partnership, the Partners or the Parents not contained herein or in the Letters of Transmittal and, if given or made, such information or representation must not be relied on as having been authorized.

BNS Inc.

March 3, 1988

ANNEX I

MEMBERS OF THE BOARD OF DIRECTORS AND EXECUTIVE OFFICERS OF THE PURCHASER AFFILIATES

The names of the members of the Board of Directors and executive officers of each of the Purchaser Affiliates, and their present principal occupations and principal occupations during the last five years are set forth below. Unless otherwise indicated, each individual is a citizen of the United States and the business address of each person is the address indicated below the name of the entity under which his name appears.

1. BNS Inc.
   2515 McKinney Avenue
   Dallas, Texas 75201

Name and Position Held with the Purchaser	Other Principal Occupations and Other Directorships During the Past Five Years
Brian C. Beazer (1) — President and Director Beazer PLC Beazer House Lower Bristol Road, Bath BA2 3EY United Kingdom	Chairman and Chief Executive of Beazer PLC since 1983. Chief Executive of Beazer PLC since 1968.
Thomas B. Howard, Jr. — Vice President and Director	Chairman, President and Chief Executive Officer of Gifford-Hill & Company, Inc. since 198.; President and Chief Executive Officer of Gifford-Hill & Company, Inc. since 1985; President and Chief Operating Officer of Gifford-Hill since 1977; Director of Dallas Corporation, Lennox International Inc., RepublicBank Dallas, United Way, American Concrete Pipe Association and the Better Business Bureau; President of the Board of Trustees of Irving Community Hospital Foundation; member of the Advisory Council of the University of Texas at Dallas.
Roy G. Turner — Treasurer and Director	Vice President and Chief Financial Officer of Gifford-Hill & Company, Inc. since 1985; Vice President and Controller of Gifford-Hill & Company, Inc. from 1975 to 1985.
Royce W. Montgomery — Secretary and Director	Vice President, General Counsel and Secretary or Assistant Secretary of Gifford-Hill & Company, Inc. since 1982.

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(1) Citizen of the United Kingdom.

2. Bright Aggregates Inc.
   2515 McKinney Avenue
   Dallas, Texas 75201

Name and Position Held with Bright	Other Principal Occupations and Other Directorships During the Past Five Years
Brian C. Beazer — President and Director	See Description under Section 1 of this Annex I
Thomas B. Howard — Vice President and Director	See Description under Section 1 of this Annex I
Roy G. Turner — Treasurer and Director	See Description under Section 1 of this Annex I
Royce W. Montgomery — Secretary and Director	See Description under Section 1 of this Annex I

3. Beazer PLC
   Beazer House
   Lower Bristol Road, Bath,
   Avon BA2 3EY
   United Kingdom

Name and Position Held with Beazer PLC	Other Principal Occupations and Other Directorships During the Past Five Years
Brian C. Beazer (1) — Chairman and Chief Executive; Director	See Description under Section 1 of this Annex I.
Edward R. Allen (1) — Group Managing Director; Contracting	Director of French Kier since 1983; Director of Beazer PLC since January 1986 when Beazer PLC acquired French Kier.
Alan Chapple (1) — Finance Director	Director of Beazer PLC since 1972.
The Lord Digby (1) — Non-executive Director	Non-executive director of Beazer PLC since 1983; Lord Lieutenant of Dorset since 1985; Director of Brooklyns Westbrick Limited from 1970 until 1982, when it was acquired by Beazer PLC.
Thomas B. Howard — Chief Executive Officer of Gifford-Hill and Company, Inc.	See Description under Section 1 of this Annex 1.
Alan M. Kent (1) — Non-executive Director Travers Smith Braithwaite 6 Snow Hill London EC1A 2AL United Kingdom	Non-executive director of Beazer PLC since December 1986; Solicitor and partner of Travers Smith Braithwaite, solicitors to Beazer PLC, since prior to 1983.

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(1) Citizen of the United Kingdom.

Name and Position Held with Beazer PLC	Other Principal Occupations and Other Directorships During the Past Five Years
John W. Matthews (1) — Non-executive Director County NatWest Limited Drapers Gardens 12 Throgmorton Avenue London EC2P 2ES	Non-executive director of Beazer PLC since 1982; Executive Director of County NatWest Limited, a financial services company and wholly-owned subsidiary of NatWest Investment Bank Limited since 1979; Non-executive director of Perry Group plc and Cowan de Groot, plc.
Hugh A. Rees (1) — Director, Strategy and Corporate Planning	Director of Beazer PLC since 1981.
Robert D. Stephens (1) — Director — Managing Director, Homes	Director of Beazer PLC since 1986 and Managing Director of the Homes Division of Beazer PLC since 1986. Director of Homes Division and other executive capacities with Beazer PLC since 1982.
Matthew W. J. Thorne (1) — Director, Investment	Director for Investment of Beazer PLC since 1985; Investment Manager of Beazer PLC since 1984; Executive positions at County NatWest Limited, a financial services company and wholly owned subsidiary of NatWest Investment Bank Limited prior thereto.
Terrence J. Upsall (1) — Group Managing Director, Homes and Property	Group Managing Director for Homes and Property since 1986; Director of Beazer PLC since 1974.

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(1) Citizen of the United Kingdom.

Differences between U.K. and U.S. Accounting Practices

The consolidated financial statements of Beazer PLC and its subsidiaries are prepared in accordance with United Kingdom accounting standards and other accounting principles generally accepted in the United Kingdom ("*U.K. GAAP*") which differ in certain respects from United States generally accepted accounting principles ("*U.S. GAAP*"). Differences which have a significant effect on the consolidated net income and shareholders' equity of the Beazer PLC Group are set out below. While this is not a comprehensive summary of all differences between U.K. GAAP and U.S. GAAP, other differences would not have a significant effect on the consolidated net income and shareholders' equity of the Beazer PLC Group.

1.1 *Goodwill.* Under U.K. GAAP, the Beazer PLC Group writes off goodwill, or credits negative goodwill, arising on acquisition of subsidiaries against consolidated reserves in the year of acquisition. Under U.S. GAAP, such goodwill is amortized by charges against income over the estimated useful life, or, where such goodwill is negative, by reducing the values of non-current assets acquired, with a consequent effect on the depreciation charged. For the adjusted U.S. GAAP results, goodwill has been amortized over periods of between ten and thirty-five years.

1.2 *Revaluation of properties and depreciation.* Under U.K. GAAP, properties may be restated on the basis of appraised values in financial statements prepared in all other respects in accordance with the historical cost convention. Increases in value are credited directly to the revaluation of reserve; reductions in value below original cost (less accumulated depreciation) are charged against income. Depreciation is, where applicable, provided on these restated amounts. Such restatements are not generally permitted under U.S. GAAP and accordingly adjustments are required to property and related depreciation.

1.3 *Deferred Taxation.* Under U.K. GAAP, deferred taxation is provided on the liability method to the extent that there is a reasonable probability that a liability will arise in the foreseeable future. Deferred taxation provisions are adjusted for subsequent changes in tax rates and legislation. Under U.S. GAAP, deferred taxation is provided in full on the deferral basis. Deferred taxes are determined on the basis of the tax rates in effect at the time the timing differences originate and are not adjusted for subsequent changes in tax rates.

Under U.K. GAAP, deferred taxation acquired with subsidiaries is carried forward as such, subject to any fair value adjustments. Under U.S. GAAP, estimated future tax effects are dealt with in arriving at the fair value of the assets of companies acquired, and no deferred tax account is carried forward in respect of these amounts.

1.4 *Extraordinary items.* Under U.K. GAAP, the costs or credits associated with major restructuring programs or the disposals of businesses may be classified as extraordinary items. Such treatment is not normally permitted under U.S. GAAP.

Under U.K. GAAP, the utilization of tax loss carryforwards is reflected in the tax charge whereas under U.S. GAAP any utilization is treated as an extraordinary item, or as a retroactive adjustment to the purchase transaction where the utilization relates to preacquisition losses.

1.5 *Discontinued operations.* Under U.K. GAAP, the income from discontinued operations is not disclosed separately. Under U.S. GAAP, the income from discontinued operations is disclosed separately, together with the gain or loss arising from their sale.

1.6 *Dividends.* Under U.K. GAAP, dividends proposed after the end of an accounting period in respect of that accounting period are deducted in arriving at the retained profit at the end of that period. Under U.S. GAAP, dividends are charged in the period in which they are declared.

Approximate effect on net income of differences between U.K. GAAP and U.S. GAAP.

	Year ended June 30		
	1987	1986	1985
	£m	£m	£m
Income before minority interests and extraordinary items under U.K. GAAP	47.6	21.4	10.5
U.S. GAAP Adjustments:			
Extraordinary items reclassified as non-extraordinary	0.1	0.8	1.1
Utilization of tax losses	(2.7)	(1.5)	(0.8)
Deferred taxation	(0.1)	(0.2)	(0.3)
Amortization of goodwill	(4.2)	(1.8)	(0.3)
Amortization of deferred credit	—	0.1	0.1
Reduction in depreciation arising from negative goodwill	0.1	0.1	0.1
Income from discontinued operations	(0.4)	(1.1)	(0.6)
Income from continuing operations before minority interests and extraordinary items, adjusted for U.S. GAAP	40.4	17.8	9.8
Gain (loss) on disposal of discontinued operations	5.3	—	(0.1)
Income from discontinued operations	0.4	1.1	0.6
Extraordinary item — utilization of tax losses	0.7	—	—
Income before minority interests and extraordinary items adjusted for U.S. GAAP	46.8	18.9	10.3
Minority interests under U.K. GAAP	(1.6)	(1.1)	(0.5)
Minority interests, share of U.S. GAAP	—	0.3	0.1
Minority interests, adjusted for U.S. GAAP	(1.6)	(0.8)	(0.4)
Income from continuing operations before extraordinary items, adjusted for U.S. GAAP	45.2	18.1	9.9
Extraordinary items under U.K. GAAP	5.4	0.8	1.0
U.S. GAAP Adjustments:			
Extraordinary items reclassified as non-extraordinary	(5.4)	(0.8)	(1.0)
Extraordinary items, adjusted for U.S. GAAP	—	—	—
Net income, adjusted for U.S. GAAP	45.2	18.1	9.9
Net income, under U.K. GAAP	51.4	21.1	11.0

	Year ended June 30,		
	1987	1986	1985
Income before extraordinary items per Ordinary Share, adjusted for U.S. GAAP, is analyzed as follows:			
Undiluted:			
Continuing operations	16.96p	14.45p	13.35p
Discontinued operations	0.17p	0.93p	0.86p
Disposal of discontinued operations	2.32p	—	(0.15)p
Extraordinary items	0.31p	—	—
Net income	19.76p	15.38p	14.06p
Under U.K. GAAP	20.12p	17.21p	14.32p
Fully Diluted:			
Continuing operations	16.05p	13.41p	12.87p
Discontinued operations	0.17p	0.86p	0.83p
Disposal of discontinued operations	2.19p	—	(0.14)p
Extraordinary items	0.29p	—	—
Net income	18.70p	14.27p	13.56p
Under U.K. GAAP	19.03p	15.85p	13.81p

APPROXIMATE CUMULATIVE EFFECT ON SHAREHOLDERS' EQUITY OF DIFFERENCES BETWEEN U.K. GAAP AND U.S. GAAP

	At June 30,		
	1987	1986	1985
	£m	£m	£m
Shareholders' equity under U.K. GAAP	369.9	141.4	95.6
U.S. GAAP Adjustments:			
Goodwill	76.6	72.3	9.7
Negative goodwill	(16.0)	(2.7)	(2.7)
Reduction in depreciation arising from negative goodwill	0.2	0.5	0.4
Property revaluation	(1.9)	(1.5)	(1.5)
Accumulated depreciation	0.3	1.3	1.3
Deferred taxation	(1.6)	(1.5)	(1.3)
Proposed dividends	10.0	4.8	2.4
Shareholders' equity, adjusted for U.S. GAAP	437.5	214.6	103.9

ANNEX III

TRANSACTIONS IN COMMON SHARES WITHIN 60 DAYS PRIOR TO THE OFFER (1)

Date	Number of Common Shares Purchased/(Sold)(2)	Price (3)
1/8/88	20,000	32.52
1/11/88	58,600	31.40
1/12/88	111,300	31.78
2/4/88	(51,500)	31.60
2/5/88	(67,300)	31.74
2/8/88	(38,200)	30.50
2/9/88	(55,900)	30.66
2/10/88	(47,100)	31.08
2/11/88	(15,000)	32.50
2/22/88	10,100	34.67
2/23/88	17,900	36.76
2/24/88	293,800	37.04
2/25/88	277,000	38.43
2/26/88	125,900	39.51
2/29/88	40,000	39.95
3/1/88	126,000	41.13
3/2/88	273,300	44.19

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(1) All transactions were effected by the Partnership.

(2) All transactions were on the NYSE.

(3) Average price, excluding brokerage commissions.

Facsimile copies of the Letters of Transmittal will be accepted. The Letters of Transmittal, certificates for Shares and any other required documents should be sent or delivered by each shareholder or his broker, dealer, commercial bank, trust company or other nominee to the Depositary at one of the addresses set forth below.

The Depositary is:

Citibank, N.A.

By Mail:
Citibank, N.A.
c/o Citicorp Data
Distribution, Inc.
P.O. Box 7071
Paramus, NJ 07653

Facsimile Copy Number:
(201) 262-7521
Telex Number:
TWX (710) 990-4964
CDDI-PARA (answer back)

By Hand:
Citibank, N.A.
Broker Services Department
Mergers and Acquisitions
Window
111 Wall Street—5th Floor
New York, NY

By Overnight Courier:
Citibank, N.A.
c/o Citicorp Data
Distribution, Inc.
404 Sette Drive
Paramus, NJ 07653

For Information Call:
(201) 262-4743
(Collect)

Questions or requests for assistance or additional copies of this Offer to Purchase and the Letters of Transmittal may be directed to the Information Agent or the Dealer Managers at their respective addresses and telephone numbers set forth below. Stockholders may also contact their broker, dealer, commercial bank or trust company for assistance concerning the Offer.

The Information Agent is:

GEORGESON
& COMPANY INC.

Wall Street Plaza
New York, New York 10005
Toll Free 1-800-223-2064
Or Call Collect:

Chicago	Dallas	Los Angeles	New York	Pittsburgh
(312) 346-7161	(214) 470-9009	(213) 489-7000	(212) 440-9800	(412) 391-3146

The Dealer Managers are:

Shearson Lehman Hutton Inc.
American Express Tower
World Financial Center
New York, New York 10285
(212) 298-2167
(Call Collect)

County NatWest International Limited
100 Wall Street
New York, New York 10005
(212) 440-8300
(Call Collect)

Supplement to Offer to Purchase

BNS Inc.

the principal stockholder of which is a subsidiary of

Beazer PLC

has amended its tender offer to increase the cash price for
All Outstanding Shares of Common Stock
(Including the Associated Preferred Stock Purchase Rights)
of

Koppers Company, Inc.

to

$56.00 Net Per Common Share

THE OFFER HAS BEEN EXTENDED. THE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON FRIDAY, APRIL 1, 1988, UNLESS THE OFFER IS FURTHER EXTENDED.

THE OFFER IS CONDITIONED, AMONG OTHER THINGS, ON (1) A NUMBER OF COMMON SHARES BEING VALIDLY TENDERED AND NOT WITHDRAWN PRIOR TO THE EXPIRATION OF THE OFFER SUCH THAT, UPON THE PURCHASE OF SUCH COMMON SHARES IN THE OFFER, THE PURCHASER, BNS PARTNERS AND BRIGHT AGGREGATES INC. WILL BENEFICIALLY OWN IN THE AGGREGATE AT LEAST A MAJORITY OF THE COMMON SHARES OUTSTANDING ON A FULLY DILUTED BASIS, (2) THE NON-MANAGEMENT MEMBERS OF THE BOARD OF DIRECTORS OF THE COMPANY APPROVING THE OFFER FOR PURPOSES OF THE COMPANY'S PREFERRED STOCK PURCHASE RIGHTS OR THE PURCHASER OTHERWISE BEING SATISFIED (AS A RESULT OF COURT ACTION, REDEMPTION OR OTHERWISE) THAT SUCH RIGHTS ARE INVALID OR INAPPLICABLE TO THE OFFER AND THE PROPOSED MERGER DESCRIBED IN THE OFFER TO PURCHASE, (3) THE PURCHASER BEING SATISFIED THAT THE RESTRICTIONS ON BUSINESS COMBINATIONS CONTAINED IN SECTION 203 OF THE DELAWARE GENERAL CORPORATION LAW ARE INVALID, UNENFORCEABLE OR OTHERWISE INAPPLICABLE TO THE PROPOSED MERGER (AS A RESULT OF BOARD ACTION, THE TENDER OF A SUFFICIENT NUMBER OF SHARES, COURT ACTION OR OTHERWISE), (4) THE PURCHASER BEING SATISFIED THAT THE PROPOSED MERGER CAN BE CONSUMMATED WITHOUT THE NEED FOR A SUPERMAJORITY VOTE OF THE COMPANY'S STOCKHOLDERS PURSUANT TO ARTICLE EIGHTH OF THE COMPANY'S CERTIFICATE OF INCORPORATION (AS A RESULT OF BOARD ACTION, THE TENDER OF A SUFFICIENT NUMBER OF SHARES OR OTHERWISE) AND (5) FUNDS BEING AVAILABLE UNDER THE FINANCING COMMITMENTS AND OTHER ARRANGEMENTS DESCRIBED IN SECTION 10 OF THE OFFER TO PURCHASE AND SECTION 3 HEREOF SUFFICIENT TO PURCHASE ALL OUTSTANDING SHARES PURSUANT TO THE OFFER AND TO PAY RELATED FEES AND EXPENSES.

The Dealer Managers for the Offer are:

Shearson Lehman Hutton Inc. **County NatWest International Limited**

March 21, 1988

IMPORTANT

Any stockholder desiring to accept the Offer should either (1) request his broker, dealer, commercial bank, trust company or other nominee to effect the transaction for him or (2) complete and sign the appropriate Letter of Transmittal (the Blue Letter of Transmittal for Common Shares and the Pink Letter of Transmittal for Preferred Shares, in each case previously distributed with the Offer to Purchase) or a facsimile thereof, have his signature thereon guaranteed if required by Instruction 1 of the Letter of Transmittal and forward the Letter of Transmittal or such facsimile with his stock certificate(s) and any other required documents to the Depositary, or follow the procedure for book-entry tender of Shares set forth in Section 3 of the Offer to Purchase. Any stockholder having Shares registered in the name of a broker, dealer, commercial bank, trust company or other nominee must contact such person if he desires to tender his Shares so registered.

A stockholder who desires to tender Shares and whose certificates for such Shares are not immediately available, or who is unable to deliver all documents required by the Letter of Transmittal to the Depositary prior to the expiration of the Offer or who cannot complete the procedure for book-entry tender of Shares on a timely basis, should tender such Shares by following the procedures for guaranteed delivery set forth in Section 3 of the Offer to Purchase.

Questions and requests for assistance may be directed to the Information Agent or either of the Dealer Managers at their respective addresses and telephone numbers set forth on the back cover of this Supplement. Requests for additional copies of the Offer to Purchase, the Supplement and the Letters of Transmittal may be directed to the Information Agent, the Dealer Managers or to brokers, dealers, commercial banks or trust companies.

in Series A Preferred Stock, Beazer PLC has arranged with Natwest to apply part of the $100 million available in respect of the Letter of Credit to the Natwest Loan Facility, during the period between the closing of the Offer and the consummation of the Merger.

SLBHI Financing. By a letter dated as of March 21, 1988 (the "*SLBHI Amendment*"), the SLBHI Pre-Commitment Letter has been amended to provide that the Purchaser may at any time request SLBHI in writing to execute and deliver either (i) the SLBHI Loan Agreement providing for the purchase by SLBHI of Notes in an aggregate principal amount of up to $500 million or (ii) the SLBHI Stock Purchase Agreement providing for the purchase by SLBHI of $500 million of the Purchaser's Series B Preferred Stock. Upon delivery of the SLBHI Amendment, the Partnership paid SLBHI an additional fee of $175,000 which, like the $2,325,000 fee already paid, is refundable in the circumstances described in Section 10 of the Offer to Purchase.

The Loan Agreement has been amended to provide that, upon consummation of the Merger, SLBHI will receive ten-year warrants (the "*Warrants*") to purchase 6% of each class of the Borrower's outstanding equity securities, diluted to reflect issuances pursuant to the Warrants, the Capital Contribution Agreement and as otherwise specifically contemplated at the time of the Merger, but excluding any other issuances of equity securities (including any issuances pursuant to the Refunding Securities). The total exercise price of the Warrants will be equal to 6% of the sum of (i) the equity of the Borrower as of the consummation of the Merger, (ii) the aggregate exercise price of the Warrants and (iii) any amounts contributed pursuant to the Capital Contribution Agreement. Among other provisions, the Warrants (and any securities received upon exercise thereof) will (i) be transferable only after a public offering of the Borrower's equity securities other than Refunding Securities (or securities issuable upon exercise of Refunding Securities), (ii) be entitled to participate on a proportionate basis in any sale of the Borrower's equity securities by Bright, and (iii) contain anti-dilution and other standard provisions.

Among other things, the SLBHI Amendment provides for the following additional modifications in arrangements with SLBHI: (i) SLBHI's obligations under the SLBHI Loan Agreement will be conditioned on the Purchaser having equity of $359 million upon closing of the Offer (of which $100 million may be redeemed upon consummation of the Merger); (ii) the Capital Contribution Agreement will become effective upon consummation of the Merger and the maximum amount payable thereunder will be reduced by any part of the $100 million of equity referred to in (i) which is not redeemed upon consummation of the Merger; (iii) the amount of Refunding Securities will be increased to $475 million, of which any excess over $450 million aggregate principal amount will either be zero-coupon securities or provide for interest payable in kind or in other securities acceptable to Citibank; (iv) the maximum amount of interest payable in cash per annum in respect of Refunding Securities will not exceed $76.5 million; and (v) the Notes will require repayment in full when the aggregate principal amount outstanding does not exceed $25 million.

In addition, the fee payable upon execution of the SLBHI Loan Agreement has been increased to $2,500,000 and, to the extent that Notes are repaid other than from proceeds of Refunding Securities underwritten or placed by SLBHI or its affiliates, a fee of 1.25% of the first $25 million principal amount repaid and 3.5% of any additional principal amount so repaid will be due.

Bank Financing. By letter dated as of March 21, 1988 (the "*Bank Amendment*"), the Bank Commitment has been amended to provide that (i) the aggregate amount to be made available pursuant to the Tender Offer Facility will be increased to $807 million and (ii) the aggregate amount available under the Merger Facility will be increased to $1.181 million. The amount committed by Citibank has remained at $320 million. Part B of the Merger Facility has been increased to up to $638 million; of the components of this sum, the amount funded upon consummation of the Merger will be increased to $391 million (of which $100 million could be used to redeem Series A Preferred Stock held by Bright), the Incremental Amount would be reduced to $25 million (which will be available only if the aggregate gross cash proceeds from the issuance and sale of Refunding Securities are at least $475 million) and the remaining amounts will be unchanged. At least $57 million of Part B must be repaid within 18 months of borrowing and at least an additional $75 million within 30 months of borrowing. The Bank Amendment provides that Refunding Securities in excess of $450 million must either be zero-coupon securities or otherwise provide for interest payable in kind or in other securities acceptable to Citibank.

The Tender Offer Facility is now subject to the Purchaser having total equity of $359 million at the closing of the Offer (of which $100 million may be redeemed upon consummation of the Merger) and on the provision of $500 million by SLBHI. The Letter of Credit Condition now requires a Letter of Credit with a maximum term of thirty months, which may, however, be terminated at any time following the end of the eighteenth month when the Borrower has repaid an aggregate of $675 million under the Merger Facility.

The Bank Amendment provides for the payment of a $2 million fee upon acceptance of the Bank Amendment, which amount will, together with other amounts, be credited against the fee of 2.5% of the total amount of the Merger Facility payable upon the closing thereof.

The foregoing is only a summary of the SLBHI Pre-Commitment Letter and the Bank Commitment, as amended. The full text of such documents and amendments thereto have been filed as exhibits to the Schedule 14D-1 or amendments thereto and may be obtained in the manner set forth in Section 8 of the Offer to Purchase (except they may not be available at the regional offices of the SEC).

4. *Background of the Offer; Contacts with the Company.* The Offer commenced on March 3, 1988.

On March 8, 1988 the following letter was delivered to the offices of the Company:

> "Dear Mr. Pullin:
>
> As you and your fellow Directors meet to consider the offer by BNS Inc., a corporation the largest stockholder of which is a subsidiary of Beazer PLC, I would like to reiterate my desire to meet with you to review the merits of our offer. That is why I have attempted on three separate occasions to arrange a meeting with you.
>
> As you know, our offer was determined solely upon public information, and, based upon that information, we believe that our $45.00 per share cash offer provides full and fair value for all of your stockholders. However, it remains our desire to enter into a negotiated transaction and to determine, among other things, whether a higher price is, or is not, warranted. Furthermore, when your Board reviews Koppers' alternatives, we would expect that your Board would want to be certain that a "level-playing field" is assured.
>
> It also seems to me that in order to make an informed decision about our offer, you and your Board of Directors would want to know more about Beazer and its plans for Koppers.
>
> It is our hope that Koppers and its Board gives full consideration to our offer and gives us an opportunity to work with you in structuring a transaction that is in the best interests of all of Koppers' constituencies.
>
> Very truly yours,
>
> Brian C. Beazer
> Chairman and Chief Executive Officer"

On March 16, 1988, the Company filed with the SEC a Statement on Schedule 14D-9 recommending that holders of Common Shares reject the Offer and not tender their Common Shares pursuant thereto and making no recommendation and expressing no opinion with respect to the Offer to holders of Preferred Shares. In the Schedule 14D-9, the Company stated, among other things, that:

> "The Board also discussed and considered the implementation of a plan of recapitalization which would involve a substantial cash distribution or dividend to holders of Common Stock, while permitting stockholders to maintain an equity interest in the Company and to participate in its inherent long term values. The plan of recapitalization considered by the Board could also include the sale of Common Stock to an employee stock ownership plan to be established by the Company. In connection

with such a plan of recapitalization, the Company also intends to explore the sale of an equity interest in all or a portion of its Construction Materials and Service business or a percentage of certain portions of that business, the proceeds of which could be used to increase amounts distributed to holders of Common Stock in the recapitalization.

Since the announcement of the BNS Offer, the Company has received indications from a number of third parties concerning their interest in a possible acquisition of all or a part of the Company or one or more of the Company's principal assets. As of the date hereof, no discussions with any third parties with respect to such a transaction have occurred; however, the Company may engage in such discussions in the future."

On March 16, 1988, the Purchaser delivered the following letter to the Company:

"Dear Mr. Pullin:

As a public company ourselves, we find highly admirable your stated objective of achieving value for your shareholders. We also fully appreciate your desire to continue as a public company. We believe, nevertheless, that the course you have elected to take must include consideration of our merger proposal.

Once again, let me point out that our joint aggregates operations make eminent strategic business sense for all concerned. Together, the entities would have critical mass, geographic advantage, management strength and financial depth. This would give new career opportunities for employees and even stronger ties to the communities where we would do business.

One aspect of the press release you issued today has given us particular cause for concern: that you are considering a recapitalization, including the sale of stock to a new Koppers ESOP.

As you are undoubtedly well aware, this is exactly the response that the Board of Directors of American Standard Inc. adopted in response to the Black & Decker offer. I am sure you are also aware that a Delaware federal judge earlier today enjoined key portions of that plan. The Court did so because it concluded that management was using the takeover "threat" to justify increasing management's and the employees' ownership interest. This constituted a change of control of American Standard, and, as a result, 'the use of defensive measures is no longer an option,' according to the Court. The Court went on to quote, and hold applicable, the Delaware Supreme Court's statement in the *Revlon* case that the Board's role 'changes from defenders of the corporate bastion to auctioneers charged with getting the best price for the stockholders.'

As today's decision reiterates *in the context of a recapitalization*, 'concern for non-stockholder interests is inappropriate' once an auction is in progress. The Court concluded that 'the Recapitalization Plan would be found to amount to a sale of American Standard' and that American Standard was itself in a bidding contest with Black & Decker.

We are sure that you and your advisors can find ways to suggest why the Koppers situation is different from American Standard. But one thing should be perfectly clear to all: you now have a duty to provide us with a 'level playing field,' to meet with us, and to furnish us with the same information you would provide to potential lenders or investors in any recapitalization or asset sale program that Koppers is considering. In this regard, we would expect that you will act responsibly consistent with your fiduciary obligations, by sharing with us any non-public information you may give to others and by not entering into any 'lock ups' or other agreements that might be harmful to the company and its constituents.

We reiterate our desire to meet with you to negotiate a merger agreement. Only after we are given access to full information can we determine the maximum price we would be willing to pay.

We would also expect that you offer us a full and fair opportunity to bid on any portion of the construction materials business that you may be considering selling. We believe that we are able to provide the most attractive offer to you and your shareholders.

We hope to hear from you very soon.

Sincerely,

Brian C. Beazer
Chairman and Chief Executive"

On March 19, 1988, the Purchaser delivered the following letter to the Company:

"Dear Mr. Pullin

Although you have not yet accepted my several invitations to you and your Board of Directors to discuss the possibility of a negotiated transaction and the maximum price we would be prepared to pay, we remain confident that we will be able to provide the most attractive offer to you and your shareholders.

In this regard, we want you to know that we are prepared immediately to negotiate a merger agreement which would provide $56 per common share. I believe that this offer represents excellent value for your shareholders. We are in the process of finalizing financing arrangements for a transaction at this price and are confident that such arrangements will be concluded promptly.

I also believe that you and your Board of Directors have a fiduciary obligation both to remove all existing impediments to acceptance of such a transaction and not to create any additional obstacles that would interfere in any way with the ability of your shareholders to consider it.

I wish to reiterate once again my willingness to meet with you at any time to discuss a transaction that would provide full and fair value for your shareholders and satisfy our respective business interests and objectives. Specifically, we would be prepared to discuss a transaction involving only the purchase of substantially all of your construction materials and services business. We could meet as early as tomorrow.

We look forward to hearing from you.

Yours sincerely,

B.C. Beazer
Chairman and Chief Executive"

5. *Certain Litigation.* On March 3, 1988, the United States District Court for the Eastern District of Pennsylvania issued an order temporarily restraining the Company and the Pennsylvania Securities Commission from taking any action to enforce any provision of the PTDL.

On March 11, 1988, the Company filed a complaint (the "*Complaint*") in the United States District Court for the Western District of Pennsylvania captioned Koppers Company, Inc. *v.* American Express Company, *et al.* The Complaint names as defendants American Express Company ("*American Express*"), SLBHI, Shearson, SLM, the Partnership, the Purchaser, Bright and Beazer PLC (all collectively, the "*Defendants*"). The Complaint alleges that the Defendants, in connection with the Offer, have violated Sections 7, 10(b), 14(d) and 14(e) of the Exchange Act and the rules and regulations promulgated thereunder. Specifically, the Complaint alleges that Shearson, SLM and American

Express are "bidders" for purposes of Section 14(d)(1) of the Exchange Act because the Offer is being made either by them or on their behalf, and that the Offer to Purchase is thus in violation of Section 14(d) of the Exchange Act because it does not disclose financial and other information about such Defendants. In addition, the Complaint alleges that each such Defendant violated Section 14(d) by not filing a Schedule 14D-1 with respect to the Offer. Furthermore, the Complaint alleges that the Offer to Purchase is in violation of Sections 14(d) and 14(e) of the Exchange Act because it does not disclose that a subsidiary of Shearson pled guilty to mail fraud or that certain of the Defendants and their employees allegedly face certain legal actions and SEC investigations. The Complaint also alleges that the Offer to Purchase is in violation of Sections 14(d) and 14(e) of the Exchange Act because it does not disclose material information about the Dealer Managers and certain of their affiliates and that SLBHI's right not to provide certain financing for the Offer renders such financing, and the Offer, illusory.

The Complaint further alleges that the Schedule 14D-1, in violation of Sections 14(d) and 14(e) of the Exchange Act, is materially false and misleading because it fails to disclose that (i) the terms of the financing for the Offer are vague and speculative, (ii) such terms violate the margin rules contained in Section 7 of the Exchange Act, (iii) Shearson purchased and sold the Company's securities between October 17, 1987 and March 3, 1988, (iv) Shearson offered to help the Company in any defense of a tender offer in February of 1988 and (v) criminal, civil or administrative investigations or other matters exist. The Complaint finally alleges that the actions described in (iii) above violate Section 10(b) of the Exchange Act.

The Complaint seeks, among other things, to enjoin the Defendants from proceeding with the Offer and to recover money damages.

The Purchaser, Bright and Beazer PLC believe that the Complaint is without merit.

On March 11, 1988, the Defendants' motion in connection with the Complaint to transfer venue over the Complaint to the United States District Court for the District of Delaware was denied. On March 17, 1988, the Defendants' motion to dismiss the Complaint on the ground that it may only be properly brought as a compulsory counterclaim to the Purchaser's complaint filed in the United States District Court for the District of Delaware was denied.

On March 16, 1988 and March 17, 1988, complaints were filed against the Defendants by the City of Pittsburgh and Allegheny County, respectively, in the United States District Court for the Western District of Pennsylvania. Such complaints allege claims similar to those set forth in the Complaint.

6. *Certain Legal Matters.*

Antitrust Compliance. On March 18, 1988, the Antitrust Division filed a complaint (the "*Antitrust Division Complaint*") in the United States District Court for the Central District of California captioned *United States of America* v. *BNS Inc. and Gifford-Hill & Company, Inc.* The Antitrust Division Complaint names as defendants the Purchaser and Gifford-Hill. The Antitrust Division Complaint alleges that the Company and Gifford-Hill each own facilities in Irwindale, California used in the extraction, processing, and sale of aggregate, that the extraction, processing, and sale of aggregate constitutes a line of commerce within the meaning of Section 7 of the Clayton Act, that the aggregate from the two Irwindale facilities is sold in a particular geographic market (the "*Irwindale Aggregate District*"), that the Irwindale aggregate market is highly concentrated, and that the Purchaser's acquisition of control of the Company may result in a substantial lessening of competition in that market in violation of the Clayton Act. For relief, the Antitrust Division Complaint seeks an injunction requiring the Purchaser and Gifford-Hill to divest any interest they have or shall acquire in the Company's Irwindale aggregate plant.

On March 18, 1988, the Antitrust Division, the Purchaser, and Gifford-Hill entered a stipulation (the "*Stipulation*") agreeing to the terms of a proposed final judgment (the "*Consent Order*") to resolve

the Antitrust Division Complaint. Accordingly, concurrently with the filing of the Antitrust Division Complaint, the Antitrust Division filed the Stipulation and Consent Order in the United States District Court for the Central District of California.

The Consent Order requires the Purchaser and Gifford-Hill to sell to one or more purchasers any interest they have or shall acquire in all of the real and personal property used in the extraction, processing, and sale of aggregate at the Company's aggregate property located at Irwindale, California (the "*Assets to be Divested*"). The sale must be completed by January 1, 1989. If the sale of the Assets to be Divested has not been accomplished by that date, the Court will appoint a trustee, which shall then have the sole right to accomplish the sale of the Assets to be Divested. If after six months the trustee has not accomplished the sale of the Assets to be Divested, the Court shall enter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which may, if necessary, include extending the trust and the term of the trustee's appointment.

Prior to the sale of the Assets to be Divested, whether by the Purchaser and Gifford-Hill or by such trustee as may be appointed, the Consent Order requires the Purchaser and Gifford-Hill to preserve, hold, and continue to operate as a going business the Assets to be Divested, with its assets, management, and operations separate, distinct and apart from those of the Purchaser and Gifford-Hill, unless the Antitrust Division otherwise consents. The Consent Order also includes certain other restrictions on the operation of the Assets to be Divested and on the means of sale of the Assets to be Divested and provisions relating to record keeping and inspection and other matters, all as set forth therein.

With the filing of the Antitrust Division Complaint and the Stipulation and Consent Order, the Antitrust Division filed on March 18, 1988, a Competitive Impact Statement (the "*Competitive Impact Statement*") in the United States District Court for the Central District of California. The Competitive Impact Statement explains the nature and purpose of the proceedings, the events giving rise to the alleged violation, the terms of the consent Order, the remedies available to a potential private litigant, the procedures available to modify the Consent Order, the alternatives to entry of the Consent Order, and the documents considered determinative by the Antitrust Division.

The Consent Order may not be entered as a final judgment prior to compliance with the Antitrust Procedures and Penalties Act (the "*Tunney Act*"). The Purchaser and Gifford-Hill have agreed to be bound by the Consent Order before its entry as a final judgment, however. Pursuant to the Tunney Act, the Antitrust Divsiion must publish in the *Federal Register* the Antitrust Division Complaint, the Stipulation and Consent Order, and the Competitive Impact Statement. The public may comment to the Antitrust Division regarding these matters within 60 days of publication in the *Federal Register*. The Antitrust Division must respond to any such comments, and the comments and responses thereto will be published in the *Federal Register* and filed with the United States District Court for the Central District of California. At any time after compliance with the requirements of the Tunney Act, upon the motion of any party or the Court's own motion, the Consent Order may be entered as a final judgment. Until such time as the Consent Order is entered as a final judgment, the Antitrust Division (but not the Purchaser or Gifford-Hill) may withdraw its consent to the entry of the Consent Order, in which case the Consent Order may not be entered by the Court, and the Stipulation will be of no force or effect, and the making of the Stipulation shall be without prejudice to any party in the lawsuit initiated by the Antitrust Division Complaint or in any other lawsuit.

The foregoing is only a summary of the Antitrust Division Complaint, the Stipulation and Consent Order and the Competitive Impact Statement. The full text of such documents have been filed as exhibits to an amendment to the Schedule 14D-1 and may be obtained in the manner set forth in Section 8 of the Offer to Purchase (except they may not be available at the regional offices of the SEC).

At 11:59 p.m. on March 18, 1988, the waiting period under the HSR Act with respect to the Offer expired without the Antitrust Division or the FTC requesting further information from Beazer PLC or American Express.

United Kingdom. The Beazer PLC Shareholder Meeting was held on March 21, 1987 and at such meeting the shareholders of Beazer PLC approved Beazer PLC's investment in the Purchaser and certain related matters.

The Office of Fair Trading of England has indicated that it is not the intention of the Secretary of State for Trade and Industry to refer the proposed acquisition of the Company to the Monopolies and Merger Commission.

7. *Certain Conditions of the Offer.* As a result of the actions discussed in Section 6 above, each of the Beazer Shareholder Vote Condition and the conditions set forth in clauses (i) and (j) of Section 16 of the Offer to Purchase have been satisfied.

8. *Miscellaneous.* Except as expressly set forth in this Supplement, the terms and conditions of the Offer remain in full force and effect.

The Purchaser has filed amendments to the Schedule 14D-1 with the SEC furnishing certain additional information with respect to the Offer. Such filings, including exhibits, may be examined and copies obtained in the same places and the same manner as set forth in Section 8 of the Offer to Purchase (except they may not be available in the regional offices of the SEC).

BNS Inc.

March 21, 1988

Facsimile copies of the Letters of Transmittal will be accepted. The Letters of Transmittal, certificates for Shares and any other required documents should be sent or delivered by each shareholder or his broker, dealer, commercial bank, trust company or other nominee to the Depositary at one of the addresses set forth below.

The Depositary is:

Citibank, N.A.

By Mail:
Citibank, N.A.
c/o Citicorp Data
Distribution, Inc.
P.O. Box 7071
Paramus, NJ 07653

Facsimile Copy Number:
(201) 262-7521
Telex Number:
TWX (710) 990-4964
CDDI-PARA (answer back)

By Hand:
Citibank, N.A.
Broker Services Department
Mergers and Acquisitions
Window
111 Wall Street—5th Floor
New York, NY

By Overnight Courier:
Citibank, N.A.
c/o Citicorp Data
Distribution, Inc.
404 Sette Drive
Paramus, NJ 07653

For Information Call:
(201) 262-4743
(Collect)

Questions or requests for assistance or additional copies of the Offer to Purchase, the Supplement and the Letters of Transmittal may be directed to the Information Agent or the Dealer Managers at their respective addresses and telephone numbers set forth below. Stockholders may also contact their broker, dealer, commercial bank or trust company for assistance concerning the Offer.

The Information Agent is:

GEORGESON & COMPANY INC.

Wall Street Plaza
New York, New York 10005
Toll Free 1-800-223-2064
Or Call Collect:

Chicago	Dallas	Los Angeles	New York	Pittsburgh
(312) 346-7161	(214) 470-9009	(213) 489-7000	(212) 440-9800	(412) 391-3146

The Dealer Managers are:

Shearson Lehman Hutton Inc.
American Express Tower
World Financial Center
New York, New York 10285
(212) 298-2167
(Call Collect)

County NatWest International Limited
100 Wall Street
New York, New York 10005
(212) 440-8300
(Call Collect)

Second Supplement to Offer to Purchase

BNS Inc.

the principal stockholder of which is a subsidiary of

Beazer PLC

has amended its tender offer to increase the cash price for

All Outstanding Shares of Common Stock
(Including the Associated Preferred Stock Purchase Rights)

of

Koppers Company, Inc.

to

$60.00 Net Per Common Share

THE OFFER HAS BEEN EXTENDED. THE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON THURSDAY, APRIL 7, 1988, UNLESS THE OFFER IS FURTHER EXTENDED.

THE OFFER IS CONDITIONED, AMONG OTHER THINGS, ON (1) A NUMBER OF COMMON SHARES BEING VALIDLY TENDERED AND NOT WITHDRAWN PRIOR TO THE EXPIRATION OF THE OFFER SUCH THAT, UPON THE PURCHASE OF SUCH COMMON SHARES IN THE OFFER, THE PURCHASER, BNS PARTNERS AND BRIGHT AGGREGATES INC. WILL BENEFICIALLY OWN IN THE AGGREGATE AT LEAST A MAJORITY OF THE COMMON SHARES OUTSTANDING ON A FULLY DILUTED BASIS, (2) THE NON-MANAGEMENT MEMBERS OF THE BOARD OF DIRECTORS OF THE COMPANY APPROVING THE OFFER FOR PURPOSES OF THE COMPANY'S PREFERRED STOCK PURCHASE RIGHTS OR THE PURCHASER OTHERWISE BEING SATISFIED (AS A RESULT OF COURT ACTION, REDEMPTION OR OTHERWISE) THAT SUCH RIGHTS ARE INVALID OR INAPPLICABLE TO THE OFFER AND THE PROPOSED MERGER DESCRIBED IN THE OFFER TO PURCHASE, (3) THE PURCHASER BEING SATISFIED THAT THE RESTRICTIONS ON BUSINESS COMBINATIONS CONTAINED IN SECTION 203 OF THE DELAWARE GENERAL CORPORATION LAW ARE INVALID, UNENFORCEABLE OR OTHERWISE INAPPLICABLE TO THE PROPOSED MERGER (AS A RESULT OF BOARD ACTION, THE TENDER OF A SUFFICIENT NUMBER OF SHARES, COURT ACTION OR OTHERWISE), (4) THE PURCHASER BEING SATISFIED THAT THE PROPOSED MERGER CAN BE CONSUMMATED WITHOUT THE NEED FOR A SUPERMAJORITY VOTE OF THE COMPANY'S STOCKHOLDERS PURSUANT TO ARTICLE EIGHTH OF THE COMPANY'S CERTIFICATE OF INCORPORATION (AS A RESULT OF BOARD ACTION, THE TENDER OF A SUFFICIENT NUMBER OF SHARES OR OTHERWISE) AND (5) FUNDS BEING AVAILABLE UNDER THE FINANCING COMMITMENTS AND OTHER ARRANGEMENTS DESCRIBED IN SECTION 10 OF THE OFFER TO PURCHASE, SECTION 3 OF THE FIRST SUPPLEMENT AND SECTION 3 HEREOF SUFFICIENT TO PURCHASE ALL OUTSTANDING SHARES PURSUANT TO THE OFFER AND TO PAY RELATED FEES AND EXPENSES.

The Dealer Managers for the Offer are:

Shearson Lehman Hutton Inc.

County NatWest International
Limited

March 25, 1988

IMPORTANT

Any stockholder desiring to accept the Offer should either (1) request his broker, dealer, commercial bank, trust company or other nominee to effect the transaction for him or (2) complete and sign the appropriate Letter of Transmittal (the Blue Letter of Transmittal for Common Shares and the Pink Letter of Transmittal for Preferred Shares, in each case previously distributed with the Offer to Purchase) or a facsimile thereof, have his signature thereon guaranteed if required by Instruction 1 of the Letter of Transmittal and forward the Letter of Transmittal or such facsimile with his stock certificate(s) and any other required documents to the Depositary, or follow the procedure for book-entry tender of Shares set forth in Section 3 of the Offer to Purchase. Any stockholder having Shares registered in the name of a broker, dealer, commercial bank, trust company or other nominee must contact such person if he desires to tender his Shares so registered.

A stockholder who desires to tender Shares and whose certificates for such Shares are not immediately available, or who is unable to deliver all documents required by the Letter of Transmittal to the Depositary prior to the expiration of the Offer or who cannot complete the procedure for book-entry tender of Shares on a timely basis, should tender such Shares by following the procedures for guaranteed delivery set forth in Section 3 of the Offer to Purchase.

Questions and requests for assistance may be directed to the Information Agent or either of the Dealer Managers at their respective addresses and telephone numbers set forth on the back cover of this Second Supplement. Requests for additional copies of the Offer to Purchase, the First Supplement, this Second Supplement and the Letters of Transmittal may be directed to the Information Agent, the Dealer Managers or to brokers, dealers, commercial banks or trust companies.

Senator HEINZ. Thank you. May I ask Shearson, is that not your understanding of the arrangement?

Mr. WOLITZER. Senator, there are many different forms of financing with respect to this transaction under certain circumstances.

Senator HEINZ. Well, let me just ask the specific question. If Shearson provides the bridge financing by purchasing preferred stock, is it true that Shearson has the right—not that they will, but has the right to exchange the stock for promissory notes after the merger? Is that true or not?

Mr. WOLITZER. There are certain circumstances, sir, you are correct, that after a merger that can take place.

Senator HEINZ. Yes. Now, Mr. Beazer, your investment bankers have just told me and you the answer to that question. Has Shearson told you whether they intend to exercise that right in the event they cannot sell high yield securities?

Mr. BEAZER. The total situation relating to financing is explained in all the documents that were published.

Senator HEINZ. We call that taking the fifth amendment, but you're entitled to do it, even though you're a Brit.

Mr. BEAZER. Well, I'm sorry, sir, but we have a complex set of documentation. I cannot remember the full details.

Senator HEINZ. Mr. Beazer, I asked you at the outset if you had requested to testify here.

Mr. BEAZER. I have, sir.

Senator HEINZ. That is correct?

Mr. BEAZER. That is correct.

Senator HEINZ. And a man who was as cautious and careful and encyclopedic in your note-taking as I know you to be, does not help his case by referring time after time after time to a document or to the complexities of the situation when the answers are fairly simple and straightforward.

Let me ask Mr. Wolitzer, Mr. Wolitzer, if you are unable to have a high yield financing to take Shearson out of the preferred stock, what will you do? Will you exercise that right or not?

Mr. WOLITZER. Well, I think it's an incorrect premise that in fact what the financing is with respect to the tender offer is a function of what the market will be later on.

Senator HEINZ. Mr. Wolitzer, I'm just asking if you can't get your money from the market, if you can't get the money from the market, what are you going to do? Are you going to sit there as a preferred stockholder or are you going to exercise this option and become a note holder? Which one?

Mr. WOLITZER. Well, what I'm saying, Senator, is I think your premise is incorrect so it's hard to choose between the two.

Senator HEINZ. Well, you asked for it in the deal. I don't think Mr. Beazer did because it gives you additional financial control over his future. Surely you must have had a reason for wanting that in there.

Mr. WOLITZER. Well, there are different circumstances under which the financing with respect to the tender offer may be in the form of loans or may be in the form of preferred stock. I don't understand the premise with respect to what future markets may be when your question is with respect to what is the financing at the time of the tender offer. That's something I cannot predict.

Senator HEINZ. So is your answer that there are certain circumstances under which you might decide to keep the preferred stock, and there are certain circumstances under which you might exercise your right to have promissory notes? Is that your answer?

Mr. WOLITZER. My answer is that with respect to the tender offer financing, regardless of the form of financing it may take, we consider it in all respects most likely to be a form of bridge financing.

Senator HEINZ. Yes, but I'm saying after you consummate the deal, after the merger—and I apologize for taking so much time but this is a part of your agreement and I think—and you've been very clear in saying it's part of your agreement. I'm just trying to understand why it's a part of the agreement and I assume the reason it's a part of the agreement is to take into account a circumstance where you are a part of this deal longer than you intended to be. But under those circumstances, my question is, is your answer that you are prepared to go one way or the other or do you have a preference?

Mr. WOLITZER. The preference is really the result of the legal structure and I think ultimately it will be a function of counsel who's going to work with us to decide what the appropriate structures may be.

Senator HEINZ. And if I understand that correctly, it is that you want to have the flexibility to go one way or the other, depending on circumstances. Is that right?

Mr. WOLITZER. We want the flexibility to be in full agreement with the laws of this country and with respect to this financing. That is why our counsel is here to help us with—and the transaction is structured accordingly.

Senator HEINZ. My time has expired.

The CHAIRMAN. Mr. Pullin, what is the present debt-equity ratio of Koppers?

DEBT-EQUITY RATIO

Mr. PULLIN. About 20—the upper 20's, I believe, about 28 or 29 percent of total capitalization is debt, sir.

The CHAIRMAN. Do you anticipate that the debt of Koppers will increase, stay the same, or decline as a result of this takeover?

Mr. PULLIN. I would anticipate that it will increase dramatically.

The CHAIRMAN. Can you tell us how much roughly?

Mr. PULLIN. By something over $1 billion which would be up to——

The CHAIRMAN. You've told us the debt now constitutes 29 percent of your capital.

Mr. PULLIN. Yes. It's about $180 million.

The CHAIRMAN. And what would be the debt-capital ratio then in the event the takeover proceeds?

Mr. PULLIN. It would be 100 percent debt.

The CHAIRMAN. No equity?

Mr. PULLIN. Oh, some—it would be some $50 million I believe of equity.

The CHAIRMAN. So it's $1 billion capital, $50 million of equity, and $950 million of debt?

Mr. PULLIN. Some such arrangement, yes.

The CHAIRMAN. Is Koppers industry regarded as cyclical?

Mr. PULLIN. Yes. That's one of the things we've been working hard to overcome or to minimize, the cyclicality.

The CHAIRMAN. What happens in the event of a recession when you have a ratio of debt to equity of 20 to 1 and your revenues drop sharply and you have several losing years? Does that mean insolvency?

Mr. PULLIN. It could well mean insolvency, sir.

The CHAIRMAN. What are the possible options to avoid this? One, I would take it would be to diminish your debt by selling some of your present assets. Is that a feasible possibility? What would be the consequences of that on your operations?

Mr. PULLIN. Well, that's certainly a possibility—a strong possibility, and that means a significantly smaller company.

The CHAIRMAN. And a less diversified company?

Mr. PULLIN. Yes, certainly it would be.

The CHAIRMAN. And a company more likely to be cyclical and therefore more vulnerable in the event of a recession?

Mr. PULLIN. I believe so. It would not have the dampening effect of being in several regions. It would be more dependent upon a narrower——

The CHAIRMAN. Where is the principal employment of Koppers? What States? I understand that Pennsylvania is certainly the place where much of your employment is, but I take it you also operate in Tennessee and several other States.

Mr. PULLIN. We're in a total of 20 States.

The CHAIRMAN. What are the States that have the most of your employment?

Mr. PULLIN. Well, we've mentioned Pennsylvania, New York State, California, Georgia, Ohio.

The Chairman. Do you foresee a takeover as affecting your employment?

Mr. PULLIN. Yes, I do.

The CHAIRMAN. Aside and apart from the fact that you might be required to divest yourself of some of your present ownership?

Mr. PULLIN. Yes. Well, the Beazer interests have stated that they intend to sell the chemical and allied products segment of the Koppers Co.

The CHAIRMAN. Could you give me about a 1 minute summary of what the case is against the takeover, in addition to what I've asked about the unfortunate consequences of debt on your operations?

Mr. PULLIN. The consequences of the takeover, sir?

The CHAIRMAN. Yes, sir. I take it you're opposed to this takeover.

Mr. PULLIN. I am opposed because I believe very sincerely that the shareholders of the Koppers Co., the Koppers Co., employees, the communities where they work, will be better off long term under the Koppers Co. management.

The CHAIRMAN. How about the customers of Koppers?

Mr. PULLIN. Customers, suppliers are in this same category. What I said substantially was that although I'm far from an expert on the banking laws, I believe that the basic issue before this committee is, should companies which own banks also be permitted to own companies.

The CHAIRMAN. I understand that's been discussed in considerable detail. I'm interested in this other aspect.

I noticed that in the Campeau takeover of Federated there was a great day for lawyers and investment bankers who in my view contribute very little to the competitiveness of Federated Department Stores.

Can you tell us how much money American Express-Shearson will make on this deal, including fees and financing arrangements, in your judgment? Can you come anywhere near it?

Mr. PULLIN. I believe the upfront fees and commissions will amount to something in the vicinity of $50 million.

The CHAIRMAN. $50 million?

Mr. PULLIN. I believe so. And further, the interest on the Shearson investment might amount to another I believe it's $133 million. So something on the order of $190 million total.

The CHAIRMAN. And how about the legal fees?

Mr. PULLIN. I don't know about those. They will be significant I am sure. I don't have a number.

The CHAIRMAN. Mr. Freeman, would you dispute those figures?

Mr. FREEMAN. Frankly, Mr. Chairman, I have no idea of what Shearson Lehman Hutton's fees will be and would hate to speculate because it's a function of time, among other things. I would also suggest that Shearson is providing financing, interim bridge financing, and I assume it will receive interest from that. However, if it didn't provide the financing, it would take those same assets and employ them probably at the same rate of return, so I wouldn't include that as part of its fees.

The CHAIRMAN. I understand Mr. Pullin to say that was part of the $190 million.

Mr. FREEMAN. Yes. I wouldn't assume that's a compensation for services. I would assume that's an alternative investment that Shearson Lehman Hutton is making. If they didn't do that, they would have the same assets to put in either Treasury bills or whatever.

The CHAIRMAN. This would have a serious effect on your cash flow and the availability of funds for research and development, for manpower training, for buying new and more modern equipment. In other words, for making Koppers as competitive as possible. The debt incurred under these circumstances and would require enormous interest payments over the years.

Mr. PULLIN. Yes. The need to retire and pay interest on this debt will substantially eliminate research activities, curtail capital investments, all the things which promote growth in the organization.

The CHAIRMAN. Thank you. Senator Gramm.

Senator GRAMM. Well, Mr. Chairman, I want to go back first and at least make a comment on something that was said earlier by Senator Sasser about long-term investors and whether they win or lose. It's my understanding that in the 30 days prior to this offer that this common stock in Koppers was selling at about $30 a share. So I can hear it now, a fellow runs in and says, "Billie Jean, they're taking over Koppers. It's going to ruin our retirement." And so Billie Jean says, "Well, how do you know, Bill?" He says, "Because the stock has gone up from $30 a share to $58 a share. We're ruined. Our retirement is in shambles."

Only in the U.S. Congress could people make that argument and not have other people laugh in their face. Forgive me for being unkind, but when I hear people who have come here today who have tried to engage in business, which is the business of America, being accused of taking the fifth amendment as if they're criminals, it makes me angry.

Mr. Beazer, I want to ask you a question. You offered $60 a share for stock that was selling at $30 a share. How do you think you can make money on that deal?

Mr. **Beazer**. Senator, that price at $60 a share is 24.5 times the 1987 earnings. I, too, am amazed that that price is criticized and the mechanics is criticized when the price rises. We believe that we can make money by being efficient in the marketplace, by encouraging all of our employees. Much has been said here about employment, Senator, and I have been criticized fairly constantly about our employment record. Can I reemphasize our employment record has risen from 5,000 to 18,000, whereas I see that Koppers has gone from 18,000 to something under 11,000, according to their 10-K. We have grown our business and grown our prosperity by the recruitment of able people who drive the organization forward.

Now, with respect, I have been characterized as a corporate raider. I would suggest to you, Senator, that anybody who less resembles a corporate raider it would be difficult to find. I think I'm supposed to be the sort of people that Americans are proud of. I came into a family without money. I've driven a lorry. I've erected scaffolds. I've dug trenches. I've built houses. All with my own hands. I am not a corporate raider. It is very regretful that I should be called one. But we can make money, Senator, because I know the industry. I have worked in this industry all my life and I will continue to do so. I do not sit in very smart offices. Our corporate head office has 27 people. We don't have a massive bureaucracy with tremendous tons of paper. We are a working organization and I would have thought we were making the sort of endeavor that America and Americans would have been proud of.

Senator **Gramm**. Mr. Freeman, I want to ask you a question. Are you in this deal to make money?

Mr. **Freeman**. Is American Express in this deal——

Senator **Gramm**. Yes. Are you lending this money helping to put this deal together because you want to make a profit?

Mr. **Freeman**. Shearson Lehman Hutton is in the business of investment banking. They are also brokerage asset management. It's a profit-seeking opportunity representing its client, a longstanding client, Mr. Beazer, and his company.

Senator **Gramm**. What is the overall value of this package deal that's been put together here, this tender offer?

Mr. **Freeman**. I'm going to have to defer to Mr. Wolitzer on the detail of that.

Mr. **Wolitzer**. Approximately $1.7 billion, sir.

Senator **Gramm**. And your commission is $33 million on that? There isn't a person in the U.S. Senate that would have been here on those kinds of commissions.

Mr. **Wolitzer**. That is approximate.

Senator GRAMM. I don't think you ought to apologize for making money. Excuse me for instructing you as a witness here, but making $33 million on a deal is good business for America. You're going to pay tax on that, aren't you?

Mr. WOLITZER. You bet we are.

Senator GRAMM. And you're going to give some of it to your stockholders I hope.

Mr. WOLITZER. Being one of them, I hope that's correct.

Senator GRAMM. And you're going to reinvest it?

Mr. WOLITZER. Absolutely.

Senator GRAMM. Well, be proud of it, don't apologize for it. It sounds to me like it ought to be more. If this deal is going to make as much money as Beazer thinks, you're getting ripped off. [Laughter.]

Mr. Pullin, would the tender offer have been hostile at $100 a share?

Mr. PULLIN. They might have been hostile at $100 a share but that would put a totally different complexion on the situation.

Senator GRAMM. So you think at $100 a share they wouldn't have been as hostile as they are at $60?

Mr. PULLIN. Well, I expect they would have been just as hostile, but they started at $45.

Senator GRAMM. At $100 a share, would you have recommended the sale even with the involvement of Shearson?

Mr. PULLIN. I can't speak for the board of directors of the Koppers Co. I am one member. I would expect that $100 a share that the board of directors of Koppers Co. would have recommended that the shareholders tender.

Senator GRAMM. Even though they're going to do all these terrible things, you would have sold out for $100 a share but you wouldn't sell out for $60?

Mr. PULLIN. Well, I don't know that I would characterize it as selling out.

Senator GRAMM. Well, you just got through characterizing it earlier, that at $60 a share it was rape.

Mr. PULLIN. We're not certain at this point in time that $60 a share is an adequate price.

Senator GRAMM. My time has expired, Mr. Chairman.

The CHAIRMAN. Senator Heinz.

Senator HEINZ. I want to commend my friend from Texas for asking the very old question in new clothing.

Senator GRAMM. Thank you. The George Bernard Shaw question, right?

Senator HEINZ. Right.

Senator GRAMM. I recognized it when I asked it. [Laughter.]

Senator HEINZ. Mr. Wolitzer, regarding the deal that you have helped structure here, assuming that Shearson provides the bridge financing in the form of preferred stock, it is true, isn't it, that Shearson intends to exchange the preferred stock for notes after the merger?

Mr. WOLITZER. There are circumstances where that would be preferable, yes.

Senator HEINZ. And is it also true that Shearson at the merger will own 46 percent of the common stock of BNS?

Mr. **Wolitzer**. It is correct, Senator, that we will own 46 percent of the common stock representing $23 million out of a deal something under $2 billion in size with no voting control whatsoever.

Senator **Heinz**. What is the total amount?

Am I not correct that the total common stock equity in the deal is $50 million?

Mr. **Wolitzer**. You are correct that the common stock layer is $50 million.

Senator **Heinz**. Of which you have $23 million and that's 46 percent. Thank you. All right.

Let me ask Mr. Beazer. By the way, good news. I've never called you a corporate raider.

Mr. **Beazer**. Thank you, Senator.

Senator **Heinz**. Someone else may have but I've never used that term, although I can't say whether or not you do look like one.

May I ask, Mr. Beazer, who suggested that Shearson make the bridge loan to finance the purchase of Koppers stock?

HOW DID THE FINANCING COME ABOUT?

Mr. **Beazer**. Talking about suggestions, in my experience, Senator, in financial matters things evolve rather than are suggested and over a series of meetings a plan is arrived at. I couldn't answer that question at this time.

Senator **Heinz**. Let me ask a more concrete question then. Who arranged for Citibank to provide bank loans for the takeover? Who made the arrangements with Citibank?

Mr. **Beazer**. Shearson Lehman Hutton are our financial advisers in this issue and they introduced us to Citibank, but the actual negotiations with Citibank were in the main carried out by myself and my staff.

Senator **Heinz**. Did Shearson introduce you or your staff to any other banks?

Mr. **Beazer**. They did indeed.

Senator **Heinz**. They did?

Mr. **Beazer**. Yes.

Senator **Heinz**. Can you tell us what banks they were?

Mr. **Beazer**. I think that we have called on Bankers Trust. I think that is it.

Senator **Heinz**. Could you describe in as much detail as you can what understandings or contacts have been made to try and sell Koppers chemical division?

Mr. **Beazer**. I have said in deposition and in testimony on the witness stand that we have received approximately ten approaches and I have also gone on to say that I do not regard any of those approaches as serious at this date.

Senator **Heinz**. Have any banks made contact with you regarding that sale?

Mr. **Beazer**. I have said that one bank from overseas had contacted us.

Senator **Heinz**. That's Banque Paris De Pays-Bas?

Mr. **Beazer**. It is.

Senator **Heinz**. And who was the potential buyer that they were representing?

To the Holders of Shares of
Common Stock and Cumulative
Preferred Stock 4% Series of
Koppers Company, Inc.:

INTRODUCTION

The following information supplements the Offer to Purchase dated March 3, 1988 (the "*Offer to Purchase*") and the Supplement to Offer to Purchase dated March 21, 1988 (the "*First Supplement*") of BNS Inc., a Delaware corporation (the "*Purchaser*"). The Purchaser is now offering to purchase all of the outstanding shares of (a) Common Stock, $1.25 par value (the "*Common Shares*"), including the associated preferred stock purchase rights (the "*Rights*") issued pursuant to the Rights Agreement, dated as of February 24, 1986, as amended by Amendments No. 1 and 2 thereto (as so amended, the "*Rights Agreement*") between Koppers Company, Inc., a Delaware corporation (the "*Company*"), and Morgan Guaranty Trust Company as Rights Agent and (b) Cumulative Preferred Stock 4% Series, $100 par value (the "*Preferred Shares*", and together with the Common Shares, the "*Shares*"), of the Company for cash at $60.00 per Common Share and $107.75 per Preferred Share, net to the seller, on the terms and subject to the conditions in the Offer to Purchase, the First Supplement, this Second Supplement and in the related Letters of Transmittal (which together constitute the "*Offer*"). Unless the context otherwise requires, all references to the Common Shares (including references to the Shares, insofar as related to the Common Shares) shall include the Rights and all references to the Rights shall include all benefits that may inure to the stockholders of the Company or to holders of the Rights pursuant to the Rights Agreement. Tendering stockholders will not be obligated to pay brokerage commissions or, subject to Instruction 6 of the Letters of Transmittal, transfer taxes on the purchase of Shares pursuant to the Offer. The Purchaser or its affiliates will pay all charges and expenses of Shearson Lehman Hutton Inc. ("*Shearson*"), County NatWest International Limited ("*CNWI*" and, together with Shearson, the "*Dealer Managers*"), Citibank, N.A. (the "*Depositary*") and Georgeson & Company Inc. (the "*Information Agent*") in connection with the Offer. Terms not defined herein have the meanings set forth in the Offer to Purchase and the First Supplement.

The Offer is conditioned, among other things, on (1) a number of Common Shares being validly tendered and not withdrawn prior to the expiration of the Offer such that, upon the purchase of such Common Shares in the Offer, the Purchaser, BNS Partners and Bright Aggregates Inc. will beneficially own in the aggregate at least a majority of the Common Shares outstanding on a fully diluted basis; (2) the non-management members of the Board of Directors of the Company approving the Offer for purposes of the Rights or the Purchaser otherwise being satisfied (as a result of court action, redemption or otherwise) that the Rights are invalid or inapplicable to the Offer and the proposed merger described in the Offer to Purchase; (3) the Purchaser being satisfied that the restrictions on business combinations contained in Section 203 of the Delaware General Corporation Law are invalid, unenforceable or otherwise inapplicable to the proposed merger (as a result of Board action, the tender of a sufficient number of Shares, court action or otherwise); (4) the Purchaser being satisfied that the proposed merger can be consummated without the need for a supermajority vote of the Company's stockholders pursuant to Article EIGHTH of the Company's Certificate of Incorporation (as a result of Board action, the tender of a sufficient number of Shares or otherwise) and (5) funds being available under the financing commitments and other arrangements described in Section 10 of the Offer to Purchase, Section 3 of the First Supplement and Section 3 hereof sufficient to purchase all outstanding Shares pursuant to the Offer and to pay related fees and expenses (the "*Financing Condition*").

Stockholders should follow the procedures for tendering Shares set forth in Section 3 of the Offer to Purchase. Tendering stockholders should use one of the Letters of Transmittal previously mailed to stockholders with the Offer to Purchase. Stockholders who have previously validly tendered Common Shares and not withdrawn such tenders have validly tendered such Common Shares for purposes of the Offer and will be entitled to receive the increased consideration offered for Common Shares pursuant to this Second Supplement.

1. *Amended Terms of the Offer.* The price to be paid for any Common Shares purchased pursuant to the Offer has been increased to $60.00 per Common Share, net to the seller in cash, upon the terms and subject to the conditions of the Offer, as amended and modified by this Second Supplement. The price to be paid for any Preferred Shares purchased pursuant to the Offer remains $107.75 per Preferred Share. All stockholders whose Common Shares are purchased pursuant to the Offer (including those Common Shares validly tendered prior to the date hereof and not withdrawn) will receive the increased purchase price. The Purchaser has extended the Offer until 12:00 Midnight, New York City time, on Thursday, April 7, 1988. Accordingly, the term "Expiration Date" shall mean 12:00 Midnight, New York City time, on Thursday, April 7, 1988, unless and until the Purchaser, in its sole discretion, shall have further extended the period of time during which the Offer is open, in which event the term "Expiration Date" shall mean the latest time and date at which the Offer, as so extended by the Purchaser, shall expire. Certain conditions of the Offer, including the Beazer Shareholder Vote Condition, have been satisfied. See Section 7 of the First Supplement.

2. *Price Range of Shares.* On March 24, 1988, the last full trading day prior to the date of this Second Supplement, the reported closing price per Common Share on the NYSE Composite Tape was $58¾ and the reported closing price per Preferred Share on the NYSE Composite Tape was $72¼. **Stockholders are urged to obtain a current market quotation for the Shares.**

3. *Source and Amount of Funds.* The total amount of funds required by the Purchaser to purchase all Shares not currently owned by the Partnership or Bright, to repay the Margin Loans and to pay fees and expenses related to the Offer is approximately $1,702 million. The necessary funds are expected to be provided as follows: (i) approximately $298 million from the sale of Series A Preferred Stock to Bright (or a subsidiary thereof); (ii) approximately $540 million from SLBHI; and (iii) approximately $864 million from a bank loan facility from the Bank Syndicate. Such funds will be provided as set forth in Section 10 of the Offer to Purchase and Section 3 of the First Supplement, modified as described below.

Equity Financing. The amount of Series A Preferred Stock the Purchaser will issue to Bright has been increased to $325 million. Approximately $298 million of this amount will be contributed by Bright in the form of cash and the balance in the form of the Common Shares currently held by Bright (valued at the Offer price). Up to $100 million of such Series A Preferred Stock may be redeemed for cash upon consummation of the Merger.

SLBHI Financing. By a letter dated as of March 24, 1988 (the "*Second SLBHI Amendment*"), the SLBHI Pre-Commitment Letter, as amended, has been further amended to provide that the Purchaser may at any time request SLBHI in writing to execute and deliver either (i) the SLBHI Loan Agreement providing for the purchase by SLBHI of Notes in an aggregate principal amount of up to $570 million or (ii) the SLBHI Stock Purchase Agreement providing for the purchase by SLBHI of up to $540 million of the Purchaser's Series B Preferred Stock. The Second SLBHI Amendment provides that, in the latter case, upon approval of a merger between the Purchaser and the Company, SLBHI will execute and deliver a Loan Agreement providing for a loan in the principal amount of up to $30 million. Upon delivery of the Second SLBHI Amendment, the Partnership paid SLBHI an additional fee of $350,000 which, like the $2,500,000 fee previously paid, is refundable in the circumstances described in Section 10 of the Offer to Purchase.

The Loan Agreement has been amended to provide that, upon consummation of the Merger, SLBHI will receive Warrants to purchase 10% of each class of the Borrower's outstanding equity securities, diluted as described in the First Supplement. The total exercise price of the Warrants will be increased proportionately.

Among other things, the Second SLBHI Amendment provides for the following additional modifications in arrangements with SLBHI: (i) SLBHI's obligations under the SLBHI Loan Agreement will be conditioned on the Purchaser having equity of $375 million upon closing of the Offer (of which $100 million may be redeemed upon consummation of the Merger), and (ii) the amount of Refunding

Securities will be increased to $570 million, of which any excess over $450 million aggregate principal amount will either be zero-coupon securities or provide for interest payable in kind or in other securities acceptable to Citibank.

In addition, the fee payable upon execution of the SLBHI Loan Agreement has been increased to $2,850,000 and, to the extent that Notes are repaid other than from proceeds of Refunding Securities underwritten or placed by SLBHI or its affiliates, a fee of 3.5% of any principal amount so repaid will be due.

Bank Financing. By letter dated as of March 24, 1988 (the "*Second Bank Amendment*"), the Bank Commitment, as amended, has been further amended to provide that (i) the aggregate amount to be made available pursuant to the Tender Offer Facility will be increased to $864 million and (ii) the aggregate amount available under the Merger Facility will be increased to $1,187 million. The amount committed by Citibank has remained at $320 million. Part B of the Merger Facility has been increased to up to $644 million; of the components of this sum, the amount funded upon consummation of the Merger will be increased to $422 million (of which $100 million could be used to redeem Series A Preferred Stock held by Bright), the Incremental Amount will be eliminated and the remaining amounts will be unchanged.

The Tender Offer Facility is now subject to the Purchaser having total equity of $375 million at the closing of the Offer (of which $100 million may be redeemed upon consummation of the Merger) and on the provision of $540 million by SLBHI. The Merger Facility is subject to the provision of an additional $30 million by SLBHI.

The foregoing is only a summary of the second amendments to the SLBHI Pre-Commitment Letter and the Bank Commitment. The full text of such amendments have been filed as exhibits to the Schedule 14D-1 or amendments thereto and may be obtained in the manner set forth in Section 8 of the Offer to Purchase (except they may not be available at the regional offices of the SEC).

4. *Background of the Offer; Contacts with the Company.* The Purchaser amended the Offer to increase the cash price for Common Shares to $56.00 per share on March 21, 1988.

On March 22, 1988 the following letter was delivered to the offices of Beazer PLC:

> "Dear Mr. Beazer:
>
> The Board of Directors of Koppers Company, Inc. has given careful consideration to BNS Inc.'s amended offer to purchase all shares of Koppers common stock at $56 per share and all shares of Koppers preferred stock at $107.75 per share. Based in part upon the advice of the company's financial advisors, The First Boston Corporation and Dillon Read & Co. Inc., the Board has determined that BNS Inc.'s amended offer is inadequate and not in the best interest of the company's common stockholders.
>
> As you know, the Board continues to believe that the company remaining independent is a superior alternative to accepting your offer. In this regard, the Board is considering ways to enhance stockholder values, including a plan of recapitalization which would involve, among other things, a substantial distribution or dividend to the holders of common stock, while permitting those stockholders to maintain an equity interest in the company and to participate in its inherent long-term value. In light of the inadequacy of your offer, the Board does not believe that discussions with you at this time serve the best interests of the company or its common stockholders.
>
> Please be assured that the Koppers Board has acted, and will continue to act, in the best interests of Koppers and our stockholders.
>
> Very truly yours,
>
> C. R. Pullin"

In Amendment No. 2 to the Company's statement on Schedule 14D-9, filed with the SEC on March 22, 1988, the Company disclosed the foregoing letter, set forth the reasons for the Board's action and disclosed, among other things, that "[t]he plan of recapitalization being considered by the Board also includes the sale of Common Stock to an employee stock ownership plan to be established by the Company, as well as the sale of an interest in all or a portion of the Company's construction materials and services business or a percentage of certain portions of that business, the proceeds of which could be used to increase amounts distributed to holders of Common Stock in the recapitalization."

On March 23, 1988, the Purchaser delivered the following letter to the Company:

> "Dear Mr. Pullin:
>
> I received your letter of March 22, 1988 in which you informed me that your Board has determined that our amended offer to purchase all shares of Koppers common stock at $56 per share is inadequate. You also continue to say that your Board is considering ways to enhance stockholder values, including a plan of recapitalization which would involve a substantial distribution to stockholders of Koppers common stock.
>
> As your largest single stockholder and a very real bidder for Koppers, or, in the alternative, a buyer of your aggregates business, we want to make some facts perfectly clear to you:
>
> 1. We believe that we are able to offer greater value to your stockholders than *any* plan you are presently considering. If you have a recapitalization plan that provides your stockholders and employees with more benefits than we are prepared to provide, we, and your other stockholders, are anxious to see it;
> 2. We are prepared *immediately* to negotiate a merger agreement to provide $60 per common share in cash for all of Koppers outstanding common shares.
> 3. Alternatively, if you contemplate a recapitalization program that will enable you to provide a superior transaction, we would expect to be given a fair and full opportunity to participate in a transaction that is most beneficial to *all* of your constituents.
>
> As a fiduciary myself, I am aware of the obligations you have to your stockholders and employees. Just as I can assure you that we would not enter into a transaction that would be harmful to our shareholders, so too I can understand your desire to do justice to your stockholders and employees.
>
> In this spirit, I hope we can proceed in a professional and businesslike manner to effect a transaction that is in the best interests of all of your constituents.
>
> Yours faithfully,
>
> Brian C. Beazer
> Chairman and Chief Executive Officer"

5. *Certain Litigation.* On March 23, 1988, after a hearing, judgment was reserved by the United States District Court for the District of Delaware on the plaintiff's Motion for Preliminary Injunction (the "Injunction Motion") in BNS Inc. *v.* Koppers Company, Inc., *et. al.* (the "Delaware Action"). The Injunction Motion seeks, among other things, an order preliminarily enjoining the defendants from taking any action to enforce or apply Section 203 with respect to the Offer, or taking any action with respect to the Rights designed to prevent the Purchaser from consummating the Offer.

On March 24, 1988, the Purchaser, in connection with the Delaware Action, moved for an order temporarily enjoining the Company from declaring any dividend or other cash distribution, from entering into any legally binding agreement to sell Common Shares to an employee stock ownership plan and from selling all or part of the Company's construction materials and services business without first giving 72 hours advance written notice to the Purchaser and the Court. A hearing with respect to such motion is scheduled for March 28, 1988.

6. *Miscellaneous.* Except as expressly set forth in this Second Supplement, the terms and conditions of the Offer remain in full force and effect.

The Purchaser has filed amendments to the Schedule 14D-1 with the SEC furnishing certain additional information with respect to the Offer. Such filings, including exhibits, may be examined and copies obtained in the same places and the same manner as set forth in Section 8 of the Offer to Purchase (except they may not be available in the regional offices of the SEC).

BNS Inc.

March 25, 1988

Facsimile copies of the Letters of Transmittal will be accepted. The Letters of Transmittal, certificates for Shares and any other required documents should be sent or delivered by each shareholder or his broker, dealer, commercial bank, trust company or other nominee to the Depositary at one of the addresses set forth below.

The Depositary is:

Citibank, N.A.

By Mail:	*Facsimile Copy Number:*	*By Hand:*	*By Overnight Courier:*
Citibank, N.A. c/o Citicorp Data Distribution, Inc. P.O. Box 7071 Paramus, NJ 07653	(201) 262-7521 Telex Number: TWX (710) 990-4964 CDDI-PARA (answer back)	Citibank, N.A. Broker Services Department Mergers and Acquisitions Window 111 Wall Street—5th Floor New York, NY	Citibank, N.A. c/o Citicorp Data Distribution, Inc. 404 Sette Drive Paramus, NJ 07653

For Information Call:

(201) 262-4743
(Collect)

Questions or requests for assistance or additional copies of the Offer to Purchase, the First Supplement, the Second Supplement and the Letters of Transmittal may be directed to the Information Agent or the Dealer Managers at their respective addresses and telephone numbers set forth below. Stockholders may also contact their broker, dealer, commercial bank or trust company for assistance concerning the Offer.

The Information Agent is:

GEORGESON
& COMPANY INC

Wall Street Plaza
New York, New York 10005
Toll Free 1-800-223-2064
Or Call Collect:

Chicago	Dallas	Los Angeles	New York	Pittsburgh
(312) 346-7161	(214) 470-9009	(213) 489-7000	(212) 440-9800	(412) 391-3146

The Dealer Managers are:

Shearson Lehman Hutton Inc.
American Express Tower
World Financial Center
New York, New York 10285
(212) 298-2167
(Call Collect)

County NatWest International Limited
100 Wall Street
New York, New York 10005
(212) 440-8300
(Call Collect)

Mr. **Beazer**. A French chemical company.

Senator **Heinz**. Do you know the name of that company?

Mr. **Beazer**. I have been told but I have forgotten it because I do not regard these as serious approaches. If they were serious I would remember.

Senator **Heinz**. Could you supply that for the record? I'm sure you have that information.

Mr. **Beazer**. I can.

Senator **Heinz**. Thank you. Does American Express or any of its affiliates have any relationship with Banque Paris De Pays-Bas to your knowledge?

Mr. **Beazer**. I beg your pardon? I was just making a note. To my knowledge, no.

Senator **Heinz**. Earlier there was some discussion by you I think, Mr. Beazer, of the amount of equity that you have in this deal and you said that you have $300 million worth of equity in this deal.

Is a substantial amount of that equity as a result of borrowing from National Westminster Bank?

Mr. **Beazer**. I have given depositions on our borrowing arrangements. National Westminster Bank are our United Kingdom bankers and we have facilities with them and we have arranged certain facilities for this transaction. I have also explained that a dollar is a dollar and where it goes in an organization is difficult to define.

Senator **Heinz**. Could you supply for the record the extent to which your company was indebted to Westminster Bank immediately prior to your undertaking negotiations for Koppers and the extent to which it is now indebted or you expect it to be indebted?

Mr. **Beazer**. With your leave, I would like notice of that question, Senator. There are confidentialities which may not entirely be mine to breach.

Senator **Heinz**. Isn't it true that Beazer PLC is quite intimately involved with National Westminster Bank in the following ways—and correct me if I'm wrong in any particular, please—Nat West owns 1.5 million shares of Beazer stock. Nat West makes market in Beazer stock. Mr. Matthews, a director of Beazer, is a Nat West officer. Nat West is lending Beazer $300 million with regard to the takeover of Koppers. Nat West is investment adviser to BNS Inc. I think you just said that. Nat West is one of the two dealer managers for the tender offer. Nat West has an equity interest in the transaction. Nat West owns 4.9 percent of BNS and BNS Partners, the bidders for Koppers.

I assume that if those statements are correct that this makes Nat West a substantial important partner in the Koppers takeover. Would that not be the case?

Mr. **Beazer**. I do not believe that Nat West is a substantial and important partner of the Koppers takeover. I have already said I regard Beazer as the bidder using BNS as available. As regards the points that you've made about National Westminster, broadly, I think that they are accurate. Mr. Matthews in fact is a nonexecutive director of Beazer and is a director of one of the subsidiaries of the National Westminster Bank and whether it's adequate or accurate to describe him as an employee I wouldn't know.

Senator **Heinz**. I described him as an officer.

Mr. Beazer. I beg your pardon. What I would suggest to you is this, that that demonstrates to this room and yourself, sir, that National Westminster Bank, with whom we have had accounts since the early part of the 20th century, are fully satisfied with the conduct of our affairs. They are the largest United Kingdom bank and they do not usually associate themselves with people who act incorrectly.

Senator Heinz. We hope that they always are fortunate and not all banks always are.

If I may ask Mr. Freeman, what's the source of Shearson's investment in BNS, the $23 million?

Mr. Freeman. What is the source of Shearson's investment?

Senator Heinz. Yes. Where does it come from?

Mr. Freeman. Shearson has over $50 or $60 billion of assets. It draws from that.

Senator Heinz. Well, does it come from Shearson, Lehman Hutton, Inc.? Does it come from Shearson Lehman Brothers Holdings, Inc.? Does it come from American Express? Where does it come from?

Mr. Freeman. Well, it certainly doesn't come from American Express Co. It certainly doesn't come from Boston Safe Deposit and Trust Co., which was mentioned earlier, which would be illegal under CEBA or impossible under sections 23A and 23B of the Federal Reserve Act. It would therefore have to come from either Shearson Lehman Hutton or Shearson Lehman Holdings, which is the parent company.

Senator Heinz. Which one does it come from?

Mr. Freeman. I would have to ask Mr. Wolitzer.

Mr. Wolitzer. I don't know offhand either.

Senator Heinz. What's the source of the funds for Shearson's $540 to $570 million bridge financing?

Mr. Freeman. The same answer.

Senator Heinz. What is the equity of either one of those entities, Shearson Lehman Brothers Holdings, Inc., or Shearson Lehman Hutton, Inc.?

EQUITY HELD BY AMERICAN EXPRESS

Mr. Freeman. What is the equity held by American Express Co. in it or——

Senator Heinz. No, the equity.

Mr. Freeman. What is the source?

Senator Heinz. No. What is the equity? Equity is what you've earned over the years less what you've paid out in the way of dividends plus the original paid in capital, unless things have changed dramatically since I went to the Harvard Business School.

Mr. Freeman. I'm sorry. Maybe I don't understand the question. What is the question?

Senator Heinz. The question is, on the balance sheet of a company there is on the left a thing called assets, on the right there is a thing called liabilities. You subtract the two and you get equity, which consists usually of long-term debt of varying kinds, and then there's a thing called shareholders' equity. There are all kinds of shareholders. I'm not asking about who owns what. I'm asking what is the bottom line of——

Mr. **Freeman**. What is the precise amount

Senator **Heinz**. To the nearest $50 million.

Mr. **Freeman**. A couple billion dollars.

Senator **Heinz**. A couple billion dollars?

Mr. **Freeman**. Yes. Capital for broker-dealer are around $4 billion, I believe.

Senator **Heinz**. You're talking between equity and accumulated earnings less dividends.

Mr. **Freeman**. I'm talking about the amount of equity and I believe subordinated debt which qualifies for "capital."

Senator **Heinz**. I'm not talking about subordinated debt.

Mr. **Freeman**. I have the annual report here to look at.

Senator **Heinz**. Would you supply that for the record?

Mr. **Freeman**. Certainly.

Senator **Heinz**. Whether it's $1 billion or $2 billion, $540 million is a very large chunk of money compared to your equity. You are saying, however, that that money was lying around unused?

Mr. **Freeman**. At Shearson Lehman Hutton, the concept of money lying around unused is a very alien concept.

Senator **Heinz**. I would imagine. Did that money come from the parent?

Mr. **Freeman**. No, sir.

Senator **Heinz**. Did any of it come from a bank?

Mr. **Freeman**. No, sir. Such would be illegal.

Senator **Heinz**. I beg your pardon.

Mr. **Freeman**. A bank such as Boston Safe Co. is prevented from——

Senator **Heinz**. I didn't say the Boston Co. Any bank; you can go borrow money.

Mr. **Freeman**. To the best of my knowledge, it was of Shearson's assets. Is that accurate?

Mr. **Wolitzer**. I don't know.

Mr. **Freeman**. Shearson's assets are over $50 billion I believe.

Senator **Heinz**. But how much of that is held in a fiduciary capacity? The reason I asked you the question about equity is to bar all of those questions about assets out of the discussion.

Mr. **Freeman**. I have to get their balance sheet and report.

Senator **Heinz**. Let me ask you this. Does Shearson have any bank loans or lines of credit with banks?

Mr. **Freeman**. I would have to find that out. I'm with American Express Co. I don't follow on a detailed basis exactly——

Senator **Heinz**. Is there somebody with you who knows that answer to that question?

Mr. **Freeman**. Only Mr. Wolitzer if he happens to know.

Senator **Heinz**. Mr. Wolitzer, does Shearson have lines of credit with banks?

Mr. **Wolitzer**. I believe it does.

Senator **Heinz**. Were any of those lines of credit increased or will they be increased to permit this investment to be made?

Mr. **Wolitzer**. At this point in time, I don't know how specifically those arrangements will be made. They will be done as expeditiously as our chief financial officer will see fit at the time that this transaction is successful.

Senator HEINZ. As I understand it, you don't have—Mr. Freeman has testified that you don't have this money lying around. You have said that you're not going to get it from American Express. You said you're not going to take it from the bank that you own. There's only one other place you can get it and that's from a bank.

Mr. FREEMAN. Senator, I said it was not lying around but it was usefully employed that doesn't mean that it can't be switched from one investment to another such as Treasury bills or anything like that.

Senator HEINZ. I would be surprised if you had $½ million lying around in Treasury bills.

Mr. FREEMAN. Or stocks or bonds or whatever investment Shearson feels is appropriate. It doesn't necessarily follow that one has to go outside to get financing.

Senator HEINZ. During the last 12 months, I guess I have to ask Mr. Wolitzer, has American Express or any of its affiliates provided any capital or made any loans to Shearson and, if so, would you describe them?

Mr. WOLITZER. I would not know specifically, Senator.

Senator HEINZ. Can you provide that for the record?

Mr. WOLITZER. Yes, I can provide that information for you.

[See p. 117.]

Senator HEINZ. Does Shearson intend to maintain a long-range equity position in Koppers, Mr. Wolitzer?

Mr. WOLITZER. We do not.

Senator HEINZ. You do not. Then you will have to refinance your present equity arrangement, is that right?

Mr. WOLITZER. Well, the specifics——

Senator HEINZ. The preferred stock? The preferred stock is equity.

Mr. WOLITZER. That is equity. I get confused between the different types of financing arrangements you pose here. The $23 million we have as common stock——

Senator HEINZ. You intend to continue to own the $23 million worth of common stock, is that right?

Mr. WOLITZER. Absolutely not, Senator. This $23 million is a form of financing to facilitate the transaction for a client. There is a specific arrangement at a fixed rate of return with our client, Beazer PLC, pursuant to a specific arrangement to have that repaid. That will have nothing to do with the profitability or future of the Koppers Co. It is a separate arrangement between Shearson and its client, Beazer PLC. That has nothing to do with the Koppers Co. whatsoever.

Senator HEINZ. Could you describe in writing for the committee the relationships, if any, between American Express and its affiliates on the one hand and National Westminster and its affiliates on the other?

Mr. WOLITZER. Between the two organizations?

Senator HEINZ. Yes.

Mr. WOLITZER. Yes, we will provide that.

[See p. 115.]

Senator HEINZ. Are there any relationships?

Mr. **Wolitzer**. Not specifically to my knowledge, no.

RELATIONSHIP BETWEEN AMERICAN EXPRESS AND CITIBANK

Senator **Heinz**. Could you describe the relationships, if any, between American Express and its affiliates on the one hand and Citibank or any other bank to provide loans for the takeover and their affiliates?

Mr. **Freeman**. Senator, when you say relationships, I'm not clear what you mean. We'd like to be responsive when we submit this.

Senator **Heinz**. Relationships would include but not be limited to lines of credit, existing——

Mr. **Freeman**. Existing between American Express and its family of companies and Citicorp?

Senator **Heinz**. Existing and active loans or services provided from one company or its affiliate to the other company or its affiliate. It works both ways.

Mr. **Freeman**. Fine.

Senator **Heinz**. Mr. Freeman, let me ask you this. Were you or, for that matter, Mr. Jim Robinson, or any of the officers or directors informed of the proposed takeover of Koppers at any time prior to March 3, 1988?

Mr. **Freeman**. Is March 3 the date it appeared to the public?

Senator **Heinz**. Yes.

Mr. **Freeman**. Not to my knowledge, fortunately and appropriately.

Senator **Heinz**. Has there been any public statement made on behalf of the officers and directors of American Express as to whether or not they were informed of the proposed takeover prior to March 3?

Mr. **Freeman**. I'm not aware of any public statement by American Express on that point. It's viewed as rather academic. I mean Shearson Lehman Hutton when it engages in a client relationships in investment banking and an acquisition is obliged not to share that information beyond a very, very small number of people within Shearson, let alone the rest of the family of American Express companies. We don't want that kind of information.

Senator **Heinz**. In a letter from Mr. Robinson to Mr. Pullin, the chairman of Koppers, who is here at the witness table with us, Mr. Robinson stated, "Officers and directors of American Express are not involved in any individual investment matters."

I would ask unanimous consent that the entire letter be placed in the record with that portion italicized.

[See p. 26.]

Senator **Heinz**. Given that attitude on the part of the American Express, how can this committee or the Congress reasonably expect American Express, which under our legislation becomes a diversified financial holding company, to abide by the many restrictions contained in S. 1886 with regard to restrictions on the securities activities of companies owning banks?

Mr. **Freeman**. First, I think you can rely on American Express Co. and its family of companies to follow the law.

Second, when it comes to enforcement of legal obligations, legal prohibitions, and that type of thing, the responsibility lies in the board of directors of both companies and specifically in the audit committees of both companies and specifically in the legal departments of both companies. All those arrangements would be scrutinized under existing or future relationships.

I might add in the particular example we have today with the Beazer-Koppers transaction, we don't believe there are any kind of questions as to the actions by Shearson or American Express Co. that are questionable.

Senator HEINZ. I'm a little unclear as to how what you've just said works in practice. If you say American Express is gong to follow the law, that's fine. But if they don't know what their subsidiary is doing, how can they be sure their subsidiary, for whom they are clearly responsible, is following the law?

Mr. FREEMAN. We like to think that our business units, our subsidiaries, are aware of the law and follow it. I think one has to presume that people in the normal course of business do follow the law rather than the opposite.

Second, there are controls.

Senator HEINZ. But there's a long legal history that defines corporate responsibility and the definition, for example, of certain words of art like "knowing" include efforts or lack of efforts to find out what is going on and I can't believe that you're taking the position that American Express will not seek to understand and know that its subsidiary, for which it is legally responsible, is not violating the law.

Mr. FREEMAN. I didn't mean to suggest that we took a completely hands-off attitude toward Shearson Lehman, Hutton or any of our other subsidiaries. I would suggest, however, that there are procedures in place, whether by the auditors or by the lawyers or by the boards of directors, that give us assurance that the laws are being complied with.

If we were to examine every transaction by Shearson Lehman or by IDS or by the Travel Related Services Co. or American Express Bank, unfortunately we would require somewhere between 10 and 25 thousand lawyers to do that every day. We have some confidence that the executives, the board of Shearson and our other subsidiaries are informed of and do follow the law. I think that's a reasonable assumption. That does not suggest that we are in any way not taking our appropriate responsibilities for companies.

Senator HEINZ. Well, let's be clear. I'm not saying you're not taking your responsibilities seriously. But I would like to understand how you will operate if we passed the pending Banking Committee bill. What you've described is a reasonably hands-off attitude and I'm curious and I'm trying to find out whether American Express' attitude would change if the bill was adopted and, most particularly, if you were allowed to own, as you do, a bank.

WOULD BANKING BILL CHANGE AMERICAN EXPRESS' ATTITUDE?

Mr. FREEMAN. Well, a couple of points. I don't think we have a hands-off attitude. I think we have appropriate controls for our companies in the financial service industry in 1988, very appropriate controls. So I'm sorry, but we may have to disagree on that, Senator.

Second, if the bill as passed by the Senate becomes law, there would not be any major changes that would affect American Express Co. of which I'm aware. But if there are changes, we would do it in the same way we do it right now. The new laws would be made familiar to the various executives and lawyers throughout the corporate enterprise and they would have that responsibility. In the final analysis, the boards of directors inquire into these things quite regularly.

Senator **Heinz**. In terms of a hands-off attitude, are there any American Express directors who serve as directors of Shearson Lehman?

Mr. **Freeman**. Yes.

Senator **Heinz**. How many?

Mr. **Freeman**. I believe it's five.

Senator **Heinz**. Is Mr. Robinson one of those?

Mr. **Freeman**. Yes, sir.

Senator **Heinz**. Was Mr. Robinson aware as a director of Shearson Lehman of this transaction that we've been talking about today prior to March 3?

Mr. **Freeman**. I doubt it. I don't think so. I don't think any of the directors were.

Senator **Heinz**. Now let's review that for a moment. You've got capital at Shearson Lehman that you're unsure about but we think maybe is between $1 and $2 billion. You have somehow come up with a $½ billion—you don't know whether you borrowed it or not or exactly where it's come from, whether it's been in Government securities—but it represents an investment that is somewhere between 25 and 50 percent of the net worth of Shearson Lehman, and you've just said that the American Express members of the board of directors of Shearson Lehman didn't know anything about it prior to March 3.

I find that an extraordinary nearly unbelievable assertion.

Mr. **Freeman**. First, you shifted from equity to net worth. The net worth of Shearson is a much more substantial figure. In fact, its equity is $2 billion and its capital is roughly $4 billion. I imagine its net worth is higher than that.

Second, Shearson operates under its board of directors and its board of directors sets broad guidelines. Here a part of the investment banking unit engaged in a transaction which, from our point of view, Shearson's point of view also, was a normal transaction. We have a lot of confidence in the executives of Shearson Lehman and they exercise these judgments. We're not backing off our confidence. We have seen nothing in the allegations that have been made to suggest any improprieties.

Senator **Heinz**. If I may say so, you're saying to a company whose net worth, capital, equity, throw it all together, combined, is $6 billion, a mere $½ billion is small potatoes and the board would never dirty its hands by keeping track of a mere $½ billion?

Mr. **Freeman**. Well, I wouldn't agree with that language and I think if you look at Shearson's assets which are over $50 billion, it does take on a slightly different proportion. I don't think that it's fair to suggest that either the board of Shearson or American Express is callous in its duties in this respect.

Senator **Heinz**. I'm not saying how they feel. I'm just characterizing your testimony. They don't know because they don't know. I'm trying to figure out a board of directors, if you're accurate, could ignore $½ billion of somewhere between $1 and $6 billion worth of equity or capital being tied up in preferred stock, which is hardly a ticket to vast appreciation.

Mr. **Freeman**. I would say that the transaction fit the normal guidelines from the board. Shearson engages in a number of transactions every day.

Senator **Heinz**. Tying up $½ billion in preferred stock which is, albeit it a few million, is a fixed return and has not opportunity for capital appreciation? I mean you intend to just hang in there with preferred stock when all these other dynamic opportunities are available?

Mr. **Freeman**. Well, we think it was a rather appropriate investment and we think it will be a rather good result.

Senator **Heinz**. What's the dividend on preferred stock? What does that translate to?

Mr. **Freeman**. To translate it to an interest rate of return would suggest it's not equity, but I'm going to have to ask Mr. Wolitzer.

Mr. **Wolitzer**. Should the transaction be financed using preferred stock, which is a possibility that we don't know at this point in time, it would carry a dividend rate of 15 percent plus, I believe there's a participation with respect to an additional amount for the future.

Senator **Heinz**. Now let me ask this. In S. 1886, which was passed on the 30th, as you know, there is section 110, and that section provides for diversified holding companies, holding companies that own full service banks and have more than 80 percent of their assets in financial activities other than FDIC or FSLIC institutions.

I recall that American Express strongly supported that provision. Is that correct?

Mr. **Freeman**. I don't believe that's the case.

Senator **Heinz**. You do or don't? I didn't hear you.

Mr. **Freeman**. I said I don't believe we were a strong supporter of that.

Senator **Heinz**. You do not believe that you were a strong supporter of that provision which was carved out especially for American Express?

Mr. **Freeman**. I don't believe there was anything in the bill that was passed that was carved out especially for American Express.

Senator **Heinz**. And one other, Merrill Lynch?

Mr. **Freeman**. No.

Senator **Heinz**. You do not support that provision?

Mr. **Freeman**. I think that the provision that you are talking about is I think not really relevant to the operations of American Express Co., if I understand it correctly.

Senator **Heinz**. You don't need it?

Mr. **Freeman**. No. We don't need it. We cannot qualify under its provisions. The question for us is whether the legislation which passed the Senate is in the interest of the financial services industry in which we have a major stake. We like to think that it's a step in the right direction, which I've said earlier.

Senator HEINZ. That's interesting. I thank you. We were all under the impression that that was an important provision to American Express but I gather it's not.

Mr. FREEMAN. We read in the media that it was for us and we were a little surprised.

Senator HEINZ. I'm sorry. I was distracted. What did you say?

Mr. FREEMAN. I said, we also read in the media that somehow it was for the benefit of American Express and Merrill Lynch, which was news to us.

Senator HEINZ. Is it your interpretation of section 110 that Shearson-American Express could convert the Boston Safe Deposit and Trust Co. to a full service bank while continuing to make the type of equity investments involved in the offer for Koppers?

Mr. FREEMAN. No. Because American Express does not qualify as a diversified financial services holding company, thus section 110 would not give us any power to change the character of The Boston Co. or Boston Safe Deposit, its bank subsidiary.

Senator HEINZ. Do you agree that Section 110 says that a diversified financial holding company is subject to all the provisions of the Bank Holding Company Act except that it is not regulated by the Federal Reserve?

Mr. FREEMAN. Senator, I'm not really a lawyer and I'd have to go back or have my lawyers look at that.

Senator HEINZ. Is it your best understanding that what Congress intended was, first, to let American Express operate within the purview of section 110 as a diversified financial holding company, No. 1; and No. 2, that generally speaking, what that carve-out does is to say, yes, you can operate under that rubric of a diversified financial holding company, but you will not be subject to Fed regulation but you will be subject to most other provisions of the Bank Holding Company Act, with respect to permissible and impermissible activities?

Mr. FREEMAN. I don't believe that's the case.

Senator HEINZ. What do you think is the case?

Mr. FREEMAN. I believe the case is with the bill passed by the Senate that we would operate the same way we operate today without the bill. In other words, we would be subject to the CEBA restrictions imposed on grandfathered nonbank banks.

Senator HEINZ. I'm sorry?

Mr. FREEMAN. I say, I don't believe that bill impacts us. I believe it's my best recollection that we would be operating after the bill in the same way which we're operating right now, that the provision concerning special diversified holding companies does not apply to us, to the best of my recollection. I'd like to submit a more refined answer if I might after consultation with counsel, but I don't believe that the provision which I read about in the media—which described it as something for Merrill Lynch and American Express and maybe others—I don't recall specifically—applies to us. That's my recollection. I recall seeing it in the Wall Street Journal. I recall asking counsel, I said, "What is this?" They said it doesn't apply to us. Frequently in these kind of situations everything you read in the newspapers is not always completely accurate.

[See p. 110.]

Senator HEINZ. Let me ask you this final concluding question if you can really marshal your best legal talent and give me your best answer on it.

Under section 110, we create these entities called grandfathered diversified financial holding companies. They are grandfathered in that they are allowed to maintain a substantial interest in a bank. That is one of the key aspects of it.

Now you have maintained that you can have an interest in a bank, not be subject to the Bank Holding Company Act, and can do these kinds of deals that you're doing here and under current law that may or may not be true. But would it certainly be true that, first, banks can't do the kind of deals that you're doing right now?

Mr. FREEMAN. First, I don't believe there's any question as to the legality of what we're doing right now under current law. I would have to make that point for the record.

Second, as far as banks of any kind, I do not believe it is permissible under the Bank Holding Company Act or other regulation of banks to engage in underwriting. We're not at that point yet, and there are other limitations on banks, appropriately so, because when you become a bank with the name "bank" in your name and the FDIC sticker in the window, you take on certain very important obligations and you become much more conservative, which is much different from a securities firm who registers as a broker-dealer. There is a difference. There's a reason for that difference.

Senator HEINZ. And would it not be true that if we passed the Proxmire bill in its entirety as it is, that unless Congress voted affirmatively prior to April 1991 that banks could still not do the kind of deal that you are engaged in because they would still not be permitted to engage in underwriting securities?

Mr. FREEMAN. The 1991 vote goes to underwriting of equity, if I understand correctly.

Senator HEINZ. Yes.

Mr. FREEMAN. Right now, virtually every major commercial bank holding company in the United States engages in certain securities activities. They advise companies. They provide bridge financing. The paper is filled with tombstones and other advertisements of all the securities activities that bank holding companies are currently engaged in. The one power they do not have presently is to underwrite debt and underwrite equity. The present bill passed by the Senate would give them the power, if I understand it correctly, to underwrite debt and to have a vote in 1991 on underwriting equity. There are many other things, however——

Senator HEINZ. I just asked what I thought was a simple question. I don't disagree with what you've said, but my question was very simple, which is, would it not be impossible for banks to do what you are doing today in this deal unless Congress did in fact vote affirmatively to give banks underwriting powers?

Mr. FREEMAN. Banks can do much of what Shearson Lehman is doing today—banks are doing and could do.

Senator HEINZ. Well, that wasn't my question. That's probably true, but it's not my question.

Mr. FREEMAN. I'm sorry then——

Senator HEINZ. My question is, could banks do a deal presumably with some other company that has all the elements of financing, including stockholders' equity, common stock, preferred stock, warrants, that this deal has, if Congress didn't vote affirmatively on underwriting?

Mr. FREEMAN. Counsel advises me that a commercial bank holding company in the United States today could do, as you put it, "everything we do in this deal" today and we'll be delighted to provide a written opinion of counsel to that effect.

Senator HEINZ. Well, that doesn't mean counsel is right. I mean counsel is an advocate for a course of action. I'm not asking counsel. I'm asking you. And if your answer is counsel's, your answer is inconsistent with what you said just a few minutes ago.

Mr. FREEMAN. I don't think so, Senator.

Senator HEINZ. Well, I think we'll let the record be the guide on that.

I'd like to place into the record that chart which probably nobody else's eyes can make out either. It is a summary of the capitalization as we understand it of BNS, Inc., at tender and merger, and I'd ask that it be examined closely by our witnesses and if incorrect in any particular I hope that our witnesses will for the record submit a statement setting forth their disagreements, if any, with it.

[See p. 35.]

Senator HEINZ. I want to thank all our witnesses—Mr. Beazer, for extending his stay in the United States in preference to the United Kingdom; Mr. Freeman and Mr. Wolitzer for their testimony; Mr. Pullin for coming down from Pittsburgh and spending an exciting weekend working on things that have very little to do with the long-term future of the Koppers Co. I expect. I thank you all. You've been a most persistent, patient panel of witnesses and I think you have been very helpful to the committee. Thank you all.

[Whereupon, at 12:40 p.m., the hearing was adjourned.]

[Additional material supplied for the record follows:]

North American Securities Administrators Association, Inc.

November 3, 1987

Senator Jim Sasser
363 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Sasser:

The current policy debate over reform of the Williams Act and the creation of a more appropriate fabric for the regulation of tender offers in this country has produced a narrow and simplistic view of individual investors. This view characterizes small investors as persons who are interested only in making a quick profit. While the accumulation of wealth and the attainment of profits are primary factors in investor decision-making, there are often other equally important factors which motivate individuals to invest.

Many Americans who have invested in the stock market today consider their investment to be a commitment that goes beyond the desire for immediate financial reward. They invest in companies that involve family members, trusted acquaintances and former business associates. These investment dollars are an expression of trust and faith in the ability and plans of business managers of particular companies. These companies may be headquartered in their communities or states. The decision to invest may be driven by loyalty to community, an understanding of local or regional needs, or a desire to rebuild or encourage the development of a specific type of industry within a city, state, or region.

These considerations of small investors are seldom, in ever, taken into account by the calculations of takeover specialists, arbitrageurs or Wall Street professionals who are motivated by the prospect of immediate short-term profit.

There is an irony in this since the tactics of takeover specialists are often justified by the claim that the salutary incidental effect of takeovers is to benefit small investors. All too often, however, small investors in companies which become the target of tender offers become the victims, and not the beneficiaries, of the process.

Deficiencies in existing disclosure requirements of the Williams Act mean that individual investors can be mislead into surrendering their shares without adequate information about the plans of bidders. This lack of information and the inadequate time for decision-making permitted under current law mean that shareholders can be coerced into tendering their shares. They also may receive far less than they arguably should for their investment. Shareholders who have invested for the long term, shareholders who have some strongly felt commitment toward a particular company, and shareholders who are uncertain whether they should tender their shares feel pressured to accept the initial offer of the bidder because they fear that a successful bid will diminish the value of their non-tendered shares.

Any reform of federal tender offer regulation should have as its primary purpose the protection of the rights of individual investors and the striking of a balance between competing interests in the marketplace. It is my view that reform of the tender offer process should include timely and more complete disclosure and additional opportunity for investors to consider the decision whether to tender their shares. In order to be meaningful, such reform must recognise the important historical state role in the regulation of the tender offer process to protect the rights and interests of the small investor.

Sincerely,

James C Meyer

James C. Meyer
NASAA President, 1987-88
and Tennessee Securities
Commissioner

AMERICAN EXPRESS COMPANY
AMERICAN EXPRESS TOWER, WORLD FINANCIAL CENTER, NEW YORK, NEW YORK 10285-5160

HARRY L. FREEMAN
EXECUTIVE VICE PRESIDENT
CORPORATE AFFAIRS AND COMMUNICATIONS

April 14, 1988

Dear Senator Heinz,

You may recall that you asked me several questions during last Monday's hearings as to whether commercial banks could do, under existing law or under S.1886, "what Shearson Lehman Hutton" is doing."

I've enclosed an article from the April 13 Wall Street Journal describing Morgan Guaranty's expanding role in mergers and acquisitions. While S.1886 would permit debt underwriting and guarantee a future vote on equity underwriting, much of the mergers and acquisition business does not involve actual "underwriting". I believe I answered that most large commercial banks, by and large, are already involved in advising on and financing takeovers, and that S.1886 would allow them to participate in an additional aspect of that business, namely, the underwriting. Needless to say, the advisory fees in acquisitions may be and often are higher than the underwriting profits.

Also, last Sunday's New York Times had an article mentioning Chase Bank's first role as the lead financial advisor in a hostile takeover.

Sincerely,

The Honorable John Heinz
United States Senator
SR-277 Russell Senate Office Building
Washington, D.C. 20510-3801

6 THE WALL STREET JOURNAL WEDNESDAY, APRIL 13, 1988

Morgan's Adviser Role in Takeover Fight Strains Relationship With an Old Client

By Robert Guenther

Staff Reporter of The Wall Street Journal

NEW YORK—J.P. **Morgan** & Co. has angered **Corning Glass Works** Inc., a longtime banking client whose chairman is on Morgan's board, by helping a rival outbid Corning in a takeover fight.

The imbroglio illustrates how some of the nation's biggest banks can jeopardize client relationships as they make inroads into the mergers and acquisitions game, once the sole domain of securities firms. The latest flap is the second of the kind this year to involve Morgan.

The current controversy stems from Morgan's role as investment adviser to **SmithKline Beckman** Corp. in SmithKline's recent $37-a-share agreement to acquire **International Clinical Laboratories** Inc. Morgan so incensed James R. Houghton, Corning chairman, that Mr. Houghton seriously considered resigning from Morgan's board, according to two persons familiar with the situation.

Mr. Houghton was angered because Morgan also was acting as a lender and depository for Corning's earlier $26-a-share agreement to acquire Nashville, Tenn.-based International Clinical.

Only a talk with longtime friend and Morgan Chairman Lewis T. Preston apparently kept Mr. Houghton, a Morgan director since 1982, from stepping down, the sources said.

A Morgan spokesman said, "We obviously wouldn't comment on private matters. Mr. Houghton ought to be the one to speak."

Through a spokesman, Mr. Houghton said: "I am pleased to be on the management slate for re-election to the board of directors of Morgan."

Averting an Embarrassment

Mr. Houghton's resignation from the board would have been an embarrassment. Morgan's annual meeting is today, and a resignation would have created a problem filling his spot on short notice.

Persons familiar with the matter said that Mr. Houghton, with Mr. Preston's encouragement, may voice his concerns to the board today about what he believes were Morgan's conflicting roles in the bidding for International Clinical.

One of the persons said Mr. Houghton regarded International Clinical "as his company." The person added that Mr. Houghton is "very unhappy with the notion of doing hostile tender offers. It's anathema to him."

On March 8, Corning announced a definitive agreement to acquire International Clinical for $26 a share, or about $270 million. After SmithKline stepped in with a bid of $32 a share, the Corning, N.Y., concern boosted its offer to $35 a share. SmithKline raised its bid to $37 a share, or about $495 million, prompting Corning to drop out after agreeing to sell its three million shares to SmithKline. Corning made $33 million on the sale of the shares.

Reason for Role

It's clear why banks are pushing to do mergers and acquisitions. As adviser to SmithKline, Morgan Guaranty Trust Co. of New York, Morgan's principal subsidiary, earned a $2 million fee. That's far more than Morgan earned as depository for Corning's bid. And Morgan's role as SmithKline's adviser didn't require the bank to risk its own capital, as it would have if it financed Corning, as originally arranged. **Lazard Freres** & Co., Corning's adviser in its bid for International Clinical, lost out on a $1.5 million fee on the deal.

Roberto Mendoza, executive vice president and head of Morgan's mergers and acquisitions department, and some of his staff declined to comment on the Corning-SmithKline matter.

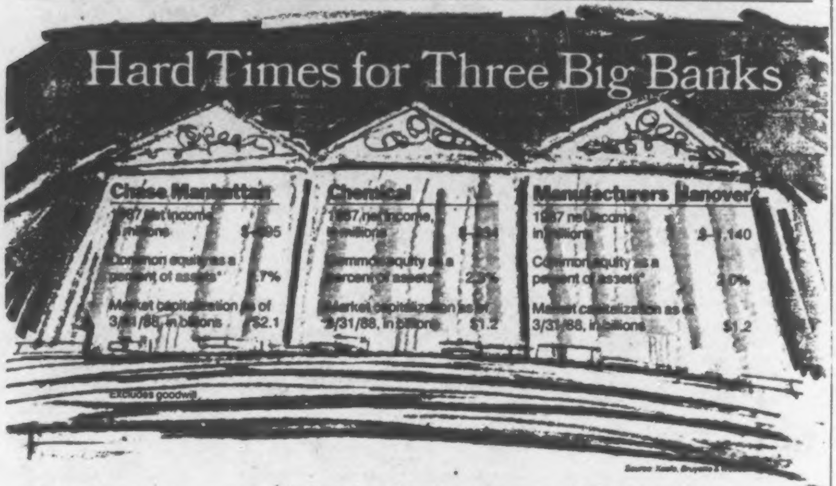
However, other Morgan officials privately asserted that the bank wasn't guilty of conflict of interest. One official said that, with the bank acting as depository and lender for Corning, Morgan executives didn't have access to privileged information connected with Corning's offer. Moreover, he said, an internal barrier, or "Chinese Wall," kept Morgan's mergers and acquisitions staff working with SmithKline from knowing what the bank was doing for Corning.

Nevertheless, longtime bank clients increasingly are feeling betrayed when they find their lender aiding a hostile acquirer or a bidding rival. And securities firms, jealous of their turf, are quick to criticize banks involved in both sides of a transaction. "When we have a conflict, we tell people to get someone else to help them," said one investment banker.

Earlier this year, Morgan ran into a buzzsaw of criticism for advising **F. Hoffmann-La Roche** & Co. in its $4.2 billion hostile bid for Sterling Drug Inc. At the time, Morgan was Sterling's stock transfer agent. **Eastman Kodak** Co. ultimately outbid Hoffmann-La Roche for Sterling. **Citicorp** last year was criticized by a client, **Gillette** Co., for agreeing to finance an ultimately unsuccessful, hostile $4.78 billion offer for Gillette by **Revlon Group** Inc.

The New York Times
Business
Sunday, April 10, 1988
Section 3

Hard Times for Three Big Banks


Chase Manhattan
1987 net income, in millions $-895
Common equity as a percent of assets* 2.7%
Market capitalization as of 3/31/88, in billions $2.1
Chemical
1987 net income, in millions $-854
Common equity as a percent of assets* 2.5%
Market capitalization as of 3/31/88, in billions $1.2
Manufacturers Hanover
1987 net income, in millions $-1,140
Common equity as a percent of assets* 3.0%
Market capitalization as of 3/31/88, in billions $1.2
*Excludes goodwill

Source: Keefe, Bruyette & Woods

Shaky loans and strategic errors at Manufacturers, Chase and Chemical could jeopardize their independence.

By ROBERT A. BENNETT

THE New York banking scene is going through wrenching change that is likely to lead to a major realignment of banking power within the city and the nation over the next few years.

Hurt by a shrinking market for their services and by billions of dollars of loans to financially ailing third-world countries, some of the city's leading banks are expected to disappear through mergers or acquisitions, or to shrink drastically. Chase Manhattan Corp., Chemical New York Corp. and Manufacturers Hanover Trust Co. are considered most vulnerable. In assets, they rank 2nd, 4th and 6th, respectively, among all American banks. But their market values are far less impressive. Measured by market capitalization, they rank 10th, 33rd and 32nd.

Much of the trouble stems from their large portfolios of shaky loans to third-world countries. But even more critical has been their continued heavy reliance on business with large multinational corporations, which have found ways to raise money without using banks as middlemen.

"The principal customer base of the large corporate banks has gone to the commercial paper and bond markets," said Lawrence W. Cohn, chief bank-stock analyst for Merrill Lynch Capital Markets.

Some large banks outside New York that had depended heavily on corporate business have already suffered serious setbacks, including the Continental Illinois National Bank in Chicago, which collapsed in 1984, and the Mellon Bank in Pittsburgh, a once proud bank that is shrinking in size and importance.

As the New York banks have faltered, a new power has emerged: regional banks. Dealing mainly with individuals and medium and small companies, these banks have been able to make good money performing the traditional banking functions of taking deposits and making loans.

Competition comes from overseas, as well. Technology makes it possible for powerful banks from Europe and Japan to compete aggressively across national boundaries. Foreign banks account for at least 25 percent of all bank loans to businesses in the United States, according to some estimates.

At the same time, regulators are pressuring banks to improve their financial underpinnings. The Federal Reserve recently proposed that equity — the investment of stockholders — represent at least four percent of total assets by the end of 1991. Most of the major New York banks have been selling assets and laying off workers to meet the target.

"If you don't have the capital or can't get it, you have to sell out, or shrink," said Geoffrey A. Thompson, president of the Marine Midland Banks.

In ordinary times, the New York banks would have time to overcome their problems. But these are not ordinary times. Deregulation has made it easier for banks to merge. And hostile takeovers, once unthinkable in banking, are becoming more likely now that

Continued on Page 6

Market Capitalization Rankings

	Chase	Chemical	Manuf. Han.
3/31/88	10	33	32
1987	13	28	32
1986	4	11	14
1985	3	8	9
1984	7	6	9

Rankings are for end of year, except 1988.

Source: Keefe, Bruyette & Woods

The New York Times / April 10, 1988

Hard Times for Three Big New York Banks

John F. McGillicuddy

AT A GLANCE

MANUFACTURERS HANOVER

All dollar amounts in thousands, except per share data

Three months ended Dec. 31	1987	1986
Net income	$82,700	$71,400
Earnings per share	$0.16	$1.57

Year ended Dec. 31	1987	1986
Net income	($1,140,200)	[illegible]
Earnings per share	—	[illegible]

Total assets, Dec. 31, 1987	$73,348,000
Stockholders equity	2,704,140
Net interest revenue*	[illegible]
Noninterest revenue	[illegible]
Book value per share, Dec. 31, 1987	[illegible]
Stock price, April 7, 1988 N.Y.S.E. consolidated close	[illegible]
Stock price, 52-week range	[illegible]
Employees, Dec. 31, 1987	30,125
Headquarters	New York

*After provision for possible credit losses.

Willard C. Butcher

AT A GLANCE

Chase Manhattan

All dollar amounts in thousands, except per share data

Three months ended Dec. 31	1987	1986
Net income	[illegible]	$157,790
Earnings per share	[illegible]	[illegible]

Year ended Dec. 31	1987	1986
Net income	($894,700)	[illegible]
Earnings per share	—	[illegible]

Total assets, Dec. 31, 1987	$99,133,000
Stockholders equity	[illegible]
Net interest income*	[illegible]
Noninterest income	[illegible]
Book value per share, Dec. 31, 1987	[illegible]
Stock price, April 7, 1988 N.Y.S.E. consolidated close	[illegible]
Stock price, 52-week range	[illegible]
Employees, Dec. 31, 1987	42,000
Headquarters	New York

*After provision for possible credit losses.

Walter V. Shipley

AT A GLANCE

Chemical New York

All dollar amounts in thousands, except per share data

Three months ended Dec. 31	1987	1986
Net income	[illegible]	[illegible]
Earnings per share	[illegible]	$1.52

Year ended Dec. 31	1987	1986
Net income	($853,700)	[illegible]
Earnings per share	—	[illegible]

Total assets, Dec. 31, 1987	[illegible]
Stockholders equity	[illegible]
Net interest income*	[illegible]
Noninterest income	1,340,000
Book value per share, Dec. 31, 1987	$41.14
Stock price, April 7, 1988 N.Y.S.E. consolidated close	[illegible]
Stock price, 52-week range	[illegible]
Employees, Dec. 31, 1987	[illegible]
Headquarters	New York

*After provision for loan losses.

Continued from Page 1

regulators have approved the Bank of New York's pending attempt to acquire the Irving Bank Corporation.

Manufacturers Sticks With Lending

Manufacturers Hanover has been under strain for years, burdened by troubled loans to Latin American countries and a large portfolio of shaky domestic loans as well. Manufacturers was slow to reduce its reliance on corporate lending, insisting that it was in business to make loans. But with that market shrinking, it had to stretch further and further to make profitable loans, often taking on greater risks. That helps explain why Manufacturers Hanover's relative exposure to third-world countries is the highest of all the city's banks, and why it made so many loans to the energy industry.

The emphasis on traditional lending reflected the personality of John F. McGillicuddy, 57 years old, who has been chairman and chief executive since 1979. One of the city's most personable bankers and one of its biggest fund-raisers for charity, he enjoyed the days when bankers saw themselves as statesmen, and paid more attention to the size of their institutions than to the bottom line. In the last few years, he has been forced to change his style.

Manufacturers was late in following its rivals into sophisticated financial services for large corporations. Instead, Manufacturers sought to increase its business with consumers and medium and smaller companies across the nation. It set up a string of lending offices around the country. In 1984 it bought the CIT Financial Corporation, which had offices in 43 states, from RCA for $1.5 billion.

Over the years, however, Manufacturers made many loans that turned sour. In recent years, Manufacturers has had huge write-offs of domestic loans. It charged off $150 million in 1983; $250 million in 1984; $440 million in 1985; $666 million in 1986, and $365 million in 1987. Under a recent restructuring that cost $82 million, Manufacturers fired 2,500 workers.

To bolster its earnings, Manufacturers has been selling off assets for several years. Almost half of its $1.1 billion in pre-tax earnings over the last five years was the result of nonrecurring gains, according to James J. McDermott Jr., senior vice president of Keefe, Bruyette & Woods, a securities firm that specializes in bank stocks. Although such sales can increase efficiency, they also may cut income and hurt future earnings.

This stripping away process also hurts morale. It may have contributed to the decision last month by John R. Torell 3d to resign as president. "I'm a builder," said the 48-year-old banker. Manufacturers Hanover said it is looking for a replacement for Mr. Torell, from inside or outside the company. But some analysts believe that the company is actually looking for someone to replace not only Mr. Torell but Mr. McGillicuddy himself.

Chemical's Costly Expansion Moves

Walter V. Shipley, Chemical's chairman, is also under pressure — although no one thinks his job is in jeopardy. A 6-foot, 5-inch man, Mr. Shipley had grand designs when he took over as chairman in 1983. The bank, long a mediocre earner (its nickname in the industry was 'Comical') had been improving gradually and, initially at least, such improvement continued.

Since then, however, Chemical has run into tougher times. In addition to its third-world loans and increasing problems with middle-market loans, the bank made some strategic errors, and suffered some bad luck.

In a risky expansion move, it bought Texas Commerce Bancshares, a huge but ailing bank holding company. Texas Commerce added $18 billion to Chemical's assets. But that increase meant that Chemical needed $720 million in equity to meet the Fed's capital ratios. But because of the stubbornness and depth of the Texas recession, Texas Commerce is still losing money, dragging down Chemical's earnings and reducing its ability to build equity.

Many analysts and competitors believe that having a major presence in Texas will eventually be a strategic asset for any banking company, but in the meantime, it is sapping Chemical's financial strength.

Chemical's equity problems will worsen with its planned acquisition of Horizon Bancorp in New Jersey, which will add still another $3.9 billion to Chemical's assets.

Bad luck has also hurt Chemical. The Federal Reserve announced proposed rule changes shortly after Chemical arranged its acquisitions of the Texas and New Jersey companies. In addition to raising the equity requirement to 4 percent, the rules would change the yardstick. Currently, the Fed looks at primary capital rather than equity alone. Primary capital includes equity and a bank's loan-loss reserves. Thus, if a bank shifts money from its equity account to its loan-loss reserve, a simple bookkeeping change, it makes little difference in meeting the Fed's current requirements.

The Fed's proposed guidelines, which are almost certain to be adopted, would no longer look at primary capital, only equity. Thus, when Chemical established large reserves against its troubled third-world loans, it moved $1.1 billion from its equity account to its loan-loss reserves. Under the new rules, that would cut Chemical's equity even further.

The Fed's capital proposals would deal still another blow to Chemical because they no longer would allow a banking company to include "goodwill" — the premium paid to acquire another company — as part of equity.

Chemical is paying an estimated $1.19 billion for Texas Commerce, but the value of Texas Commerce assets that went on Chemical's books was only about $970 million. The $220 million difference is counted as goodwill. Under existing rules, that counts as part of Chemical's equity. Under the new rules, it will not.

Thomas F. Johnson, president of Chemical, insists that the bank would remain independent. The bank's strategy calls for an emphasis on middle market lending, consumer and investment banking. "We're stripping out of all other businesses as quickly as we can," said Mr. Johnson. Businesses already shed include leasing, factoring and shareholder processing.

Taking Chase Seriously Again

Back in New York, even the venerable Chase, headed by chairman Willard C. Butcher, 61, is under pressure. Its low stock price and prestigious name make it a prime takeover candidate.

To build its equity, it has abandoned its program to acquire out-of-state banks and thrift institutions. And it has been cutting back; over the last 18 months it has eliminated 6,000 jobs, more than 10 percent of its workforce. This year it has sold Interactive Data Corp., a time-sharing computer company, and a building in Paris for an after-tax gain of $120 million. And it plans to sell One New York Plaza, the building it uses for its back-office operations.

In recent years Thomas G. Labrecque, the bank's 49-year-old president, has moved into the spotlight. Mr. Labrecque is a meticulously cautious manager.

The bank has developed a fairly clear strategy. It caters to individuals nationwide with phone and mail offerings, and to large corporations by offering them sophisticated investment banking services. It was the investment adviser to Black & Decker, which sought to acquire American Standard Corporation and the main adviser to the GAF Corporation, which is going private. And it was the lead manager for Presidio Oil in its hostile takeover attempt of Sabine Corporation — the first time a commercial bank was a lead manager in a takeover, according to Chase.

Chase also has a valuable network of international branches and subsidiaries, second only to Citicorp's. And competitors are beginning to take Chase seriously again, after its reputation suffered a series of embarrassments, including losses from the collapses of Drysdale Securities and the Penn Square Bank in 1982.

"We've turned retail banking around to where it's very profitable and our goal now is to be an undisputed leader in global corporate finance," said Mr. Labrecque.

But Chase's earnings remain mediocre mainly because of its moderately high level of third-world loans and the continuing effects of the Drysdale and Penn Square fiascos.

Weak Banks Are Takeover Targets

Some analysts believe that the problems of the New York banks might force them into a series of mergers, possibly with each other.

There are precedents for such combinations. In 1986, Wells Fargo & Company, which at the time was the nation's 10th largest banking company, took over the ailing Crocker Bank Corporation, which had been the 20th largest. And there are precedents in New York itself. Most of the leading New York banks today are the products of major-bank mergers in the late 1950's and early 1960's.

The prospect of big mergers has begun to seem more likely in light of regulatory approval for the Bank of New York's current hostile takeover bid for the Irving Bank Corporation, which would create the 11th-largest bank in the United States.

There is also speculation that some New York banks may be taken over by foreign banks. Recently, for example, Manufacturers Hanover's stock soared on rumors, later denied, that it was going to be acquired by West Germany's Deutsche Bank.

Super-Regionals Become Superpowers

Perhaps the strongest takeover threat comes from an unexpected quarter: rapidly growing and highly profitable "super-regional" banks. Deregulation has made it possible for banks to buy other banks across state lines. The impetus for deregulation originaly came from the New York banks that wanted to expand elsewhere in the country; now, though, they are the more likely prey.

"Five years ago when interstate banking was just starting regional banks were looking for ways to protect themselves from being acquired by New York banks," said Mr. Cohn. "Now it's just the reverse."

The super-regionals are barely known outside financial circles: the PNC Financial Corporation of Pittsburgh; the Fleet/Norstar Financial Group of Providence, the Suntrust Banks of Florida. But the stock market loves them, and their high stock prices give them a powerful takeover weapon, making it relatively easy for them to acquire a New York bank through an exchange of stock. For example, although PNC Financial's assets are only $26.5 billion, about half Chemical's $78.2 billion and Manufacturers' $73.3 billion, the market value of its outstanding stock was almost $3.5 billion on March 16. That compared with only $1.3 billion for Chemical and Manufacturers Hanover and $2.1 billion for Chase.

For the moment, none of the regionals has shown an interest in acquiring a New York bank. For one thing, none wants to assume the problem of billions of dollars in third-world debt, and few see any reason to move into an especially complicated and competitive environment. They would rather gobble up other highly profitable regional banks that, like them, cater to small businesses and individuals who accept low rates of interest on their deposits and pay high rates of interest on their loans.

But some analysts predict that the regionals will change their attitudes. First, smaller and medium-sized companies are expected to begin demanding the kind of sophisticated corporate finance services that so far only the major banks can deliver. And the fastest way to acquire an international network and investment banking expertise would be to buy a money-center bank.

As the executives of a few super-regionals grow more self-confident, Mr. Cohn said, "the lure of acquiring a big New York bank will prove irresistible."

Comebacks Are Still Possible

There is always the chance that the big banks could recover on their own. Bankers Trust, for instance, which faced serious problems in the mid-1970's, righted itself by selling off its consumer banking business and concentrating narrowly on sophisticated services for big corporations and governments. (See box.)

And several factors are favorable for a turnaround. There has been substantial progress in the third-world debt crisis. It appears likely that Brazil, the biggest borrower, will resume paying interest on time, which will give an important lift to the big banks' earnings.

In addition, the major banks' global networks are becoming increasingly valuable as financial markets become more and more integrated — but that, of course, is also one of their attractions as takeover candidates. So the key question remains whether any turnaround will come quickly enough for the banks to remain independent. ■

NEW YORK **SUCCESS STORIES**

NEW YORK'S other leading bank holding companies — Citicorp, J. P. Morgan & Company and the Bankers Trust New York Corporation — are in relatively good shape.

Although Citicorp's earnings have been only mediocre, its size alone places it in a separate category. With $200 billion in assets, it can absorb fairly large losses. John S. Reed, its 48-year-old chairman, built the bank's consumer activities into a highly profitable business that is largely offsetting the drain caused by third world loans and the decline in traditional corporate lending. Citicorp also has moved aggressively into investment banking.

The two most successful New York banking companies are J. P. Morgan and the Bankers Trust New York Corporation. Both have adopted very narrow strategies, providing sophisticated corporate finance services to their traditional clients, the world's largest corporations and governments.

By focusing on the largest corporations, Morgan and Bankers can keep their costs very low — there is no need for costly branch systems, for example. Part of the savings can go for high salaries and bonuses to attract and keep top professionals.

Morgan, headed by Lewis T. Preston, has been a consistently strong moneymaker. Its high stock price and large market capitalization make it fairly resistant to a hostile takeover.

Bankers Trust chairman Charles S. Sanford Jr., appears more concerned about a hostile bid; in recent months the bank has adopted "poison pill" devices.

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April 27, 1988

The Honorable John Heinz
SR-277 Russell Senate Office
  Building
Washington, D.C. 20510-3801

BY HAND

Dear Senator Heinz:

I believe that there are two questions which you asked Mr. Beazer at the hearing on April 11 which remain unanswered. As you recall, we responded to your inquiry as to the potential exchange of Shearson's preferred stock investment for debt by our letter of April 11, 1988, and we supplied to your counsel, Anne Scully, on April 15, 1988, a chart as to the financing structure of BNS, Inc. in response to your request for comments on the chart which was displayed at the end of the hearing.

The first remaining question involves the name of the French company that was identified as a potential buyer of the Koppers chemical business by a French bank which contacted Beazer for this purpose. This approach, as other similar approaches, was preliminary in nature, and did not result in any serious discussion, much less negotiation. In addition, Beazer believes that the French bank which contacted Beazer did so on the assumption that Beazer would keep the identity of the client in confidence until such time as it would be appropriate to disclose it. Thus, Beazer does not believe it is at liberty to identify the potential buyer, but for your information, there has been an absence of any serious follow-up by that company.

The second question concerns Beazer's relations with National Westminster Bank. As indicated in Mr. Beazer's testimony, Beazer has had banking relations with National Westminster since the formation of the Company in the first half of this century, and National Westminster is currently one of Beazer's leading lenders internationally. As of March 2, 1988, the day before Beazer launched its tender offer, National

Westminster's outstanding loans to Beazer (including National Westminster's share of various syndicated loan facilities in which it participates) were approximately 71.1 million British Pounds Sterling worldwide. As of April 13, 1988, such outstandings were 61.8 million British Pounds Sterling.

In its Offer to Purchase, which has already been sent to you, Beazer disclosed that National Westminster had agreed to use its best efforts to arrange a $300 million loan facility to be used in connection with the tender, of which National Westminster committed to provide up to $200 million itself. National Westminster expects that, following syndication, any amounts actually lent by it would be only a portion of such $200 million.

In addition, at the hearing you stated your understanding that National Westminster owns 1.5 million shares of Beazer common stock. National Westminster has informed Beazer that, as of the end of March, it was the beneficial owner of approximately 760,000 common shares (less than 0.3% of Beazer's outstanding equity). National Westminster and its affiliates hold additional Beazer shares as fiduciaries and nominees in a variety of pension funds and investment accounts but have no beneficial interest in such shares.

Sincerely yours,

Smith W Davis

Smith W. Davis

AMERICAN EXPRESS COMPANY
1020 NINETEENTH STREET, N.W., WASHINGTON, D.C. 20036

VALERIE T. MORSE
VICE PRESIDENT
GOVERNMENT AFFAIRS

July 25, 1988

Mr. Ira Paull
Legislative Assistant
Office of Senator John Heinz
277 Russell Senate Office Building
Washington, DC 20510

Dear Ira:

Enclosed is our written response to two questions raised during the hearing before the Senate Banking Committee on the Koppers-Beazer situation in April. I apologize for the delay in the response.

The questions were directed at Steve Wolitzer of Shearson and were not addressed when Harry Freeman responded in writing to the questions asked of him.

If you need additional information, please advise.

Sincerely,

Valerie

Valerie T. Morse

Enclosure

Q: Describe the relationship between Shearson Lehman Hutton and American Express Company.

A: American Express Company through its subsidiaries is principally engaged in the business of providing travel related services, diversified financial services, investment services and international banking services throughout the world. American Express provides investment services primarily through its subsidiary Shearson Lehman Hutton Holdings Inc. formerly, Shearson Lehman Brothers Holdings, Inc. In April, 1987, Nippon Life Insurance Company purchased 13,000,000, shares of 5% Cumulative Convertible Voting Preferred Stock, Series A, of Shearson Lehman Brothers Holdings Inc. This Series A Preferred Stock is convertible on a share-for-share basis into common stock. Nippon Life is entitled to one vote per shares of Series A preferred stock together with holders of Shearson Lehman common stock on all matters on which holders of the common stock are entitled to vote. Nippon Life was also granted a 5 year warrant to purchase 2,000,000 shares of American Express common stock at a specified price.

In May 1987, American Express Company completed a public offering of 18 million shares of Shearson Lehman common stock. In addition, Shearson Lehman issued or sold approximately 8.4 million of its common shares to certain employees and an employee stock ownership plan granted to certain employees options to purchase an additional 3.5 million common shares.

As a result of these transactions, American Express owned slightly less than 71% of the outstanding common stock of Shearson Lehman as of December 31, 1987. As of April, 1988, American Express owned approximately 62% of Shearson Lehman Hutton common stock. Under an agreement with Nippon Life, American Express may not reduce its ownership percentage of Shearson Lehman below 40% prior to January 1, 1990 without the consent of Nippon Life.

On January 21, 1988, Shearson Lehman Brothers Inc., a wholly-owned subsidiary of Shearson Lehman, purchased approximately 86% of the E.F. Hutton Group Inc. That purchase was financed by borrowing of Shearson Lehman Brothers Inc. of approximately $800,000,000 in senior subordinated debt at various interest rates and by $66,000,000 in working capital of Shearson Lehman Brothers Inc. Approximately 3.3 million additional shares of E.F. Hutton common was acquired in accordance with a merger in exchange for approximately $96.5 million of face amount, 10-3/4% Senior Subordinated Note of Shearson Lehman Brothers Inc. On January 29, 1988, Shearson Lehman Brothers Inc. was renamed Shearson Lehman Hutton Inc. and approximately one month later Shearson Lehman Brothers Holdings was renamed Shearson Hutton Holdings Inc.

Shearson Lehman Hutton is obligated to secure the prior consent of American Express Company prior to taking any action or engaging in any activity that would cause American Express Company to file a notice or request for approval with any governmental entity.

* * * * *

Q: Has American Express Company made a loan to Shearson Lehman Hutton Holdings in the last 12 months (e.g. from April, 1987 to April, 1988)?

A: American Express Company did not make any loans to Shearson Lehman Hutton Holdings Inc. during the period April, 1987 to April, 1988.

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